

**LEGISLATIVE COUNSEL
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I

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96TH CONGRESS
2D SESSION

H. R. 6790

[Report No. 96-992, Parts I and II]

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1980

Mr. FASCELL (for himself, Mrs. SCHROEDER, Mr. BUCHANAN, and Mr. LEACH of Iowa) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Post Office and Civil Service

MAY 15, 1980

Reported from the Committee on Foreign Affairs with amendments

[Omit the part struck through and insert the part printed in boldface roman]

MAY 15, 1980

Reported from the Committee on Post Office and Civil Service with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.

[Omit the part struck through and insert the part printed in italic]

A BILL

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.—This Act may be cited as
4 the “Foreign Service Act of 1980”.

5 SEC. 2. TABLE OF CONTENTS.—The table of contents
6 for this Act is as follows:

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1 **TITLE I—THE FOREIGN SERVICE OF THE**
2 **UNITED STATES**

3 CHAPTER 1—GENERAL PROVISIONS

4 SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Con-
5 gress finds that—

6 (1) a career foreign service, characterized by ex-
7 cellence and professionalism, is essential in the national
8 interest to assist the President and the Secretary of
9 State in conducting the foreign affairs of the United
10 States;

11 (2) the scope and complexity of the foreign affairs
12 of the Nation have heightened the need for a profes-
13 sional foreign service that will serve the foreign affairs
14 interests of the United States in an integrated fashion
15 and that can provide a resource of qualified personnel
16 for the President, the Secretary of State, and the agen-
17 cies concerned with foreign affairs;

1 (3) the Foreign Service of the United States, es-
2 ablished under the Act of May 24, 1924 (commonly
3 known as the Rogers Act) and continued by the For-
4 eign Service Act of 1946, must be preserved, strength-
5 ened, and improved in order to carry out its mission
6 effectively in response to the complex challenges of
7 modern diplomacy and international relations;

8 (4) the members of the Foreign Service should be
9 representative of the American people, aware of the
10 principles and history of the United States and in-
11 formed of current concerns and trends in American life,
12 knowledgeable of the affairs, cultures, and languages of
13 other countries, and available to serve in assignments
14 throughout the world; and

15 (5) the Foreign Service should be operated on the
16 basis of merit principles.

17 (b) The objective of this Act is to strengthen and im-
18 prove the Foreign Service of the United States by—

19 (1) assuring, in accordance with merit principles,
20 admission through impartial and rigorous examination,
21 acquisition of career status only by those who have
22 demonstrated their fitness through successful comple-
23 tion of probationary assignments, effective career de-
24 velopment, advancement and retention of the ablest,

1 and separation of those who do not meet the requisite
2 standards of performance;

3 (2) fostering the development and vigorous imple-
4 mentation of policies and procedures, including affirma-
5 tive action programs, which will facilitate and encour-
6 age (A) entry into and advancement in the Foreign
7 Service by persons from all segments of American soci-
8 ety, and (B) equal opportunity and fair and equitable
9 treatment for all without regard to political affiliation,
10 race, color, religion, national origin, sex, marital
11 status, age, or handicapping condition;

12 (3) providing for more efficient, economical, and
13 equitable personnel administration through a simplified
14 structure of Foreign Service personnel categories and
15 salaries;

16 (4) establishing a statutory basis for participation
17 by the members of the Foreign Service, through their
18 elected representatives, in the formulation of personnel
19 policies and procedures which affect their conditions of
20 employment, and maintaining a fair and effective
21 system for the resolution of individual grievances;

22 (5) minimizing the impact of the hardships, disrup-
23 tions, and other unusual conditions of service abroad
24 upon the members of the Foreign Service, and mitigat-

1 ing the special impact of such conditions upon their
2 families;

3 (6) providing salaries, allowances, and benefits
4 that will permit the Foreign Service to attract and
5 retain qualified personnel as well as a system of incen-
6 tive payments and awards to encourage and reward
7 outstanding performance;

8 (7) establishing a Senior Foreign Service which is
9 characterized by strong policy formulation capabilities,
10 outstanding executive leadership qualities, and highly
11 developed functional and area expertise;

12 (8) improving Foreign Service managerial flexibil-
13 ity and effectiveness;

14 (9) increasing efficiency and economy by promot-
15 ing maximum compatibility among the agencies author-
16 ized by law to utilize the Foreign Service personnel
17 system, as well as compatibility between the Foreign
18 Service personnel system and other personnel systems
19 of the Government; and

20 (10) otherwise enabling the Foreign Service to
21 serve effectively the interests of the United States and
22 to provide the highest caliber of representation in the
23 conduct of foreign affairs.

24 SEC. 102. DEFINITIONS.—(a) As used in this Act, the
25 term—

1 (1) "abroad" means all areas not included within
2 the United States;

3 (2) "agency" means an agency as defined in sec-
4 tion 552(e) of title 5, United States Code;

5 (3) "chief of mission" means the principal officer
6 in charge of a diplomatic mission of the United States
7 or of a United States office abroad which is designated
8 by the Secretary of State as diplomatic in nature, in-
9 cluding any individual assigned under section 502(c) to
10 be temporarily in charge of such a mission or office;

11 (4) "Department" means the Department of
12 State, except that with reference to the exercise of
13 functions under this Act with respect to another
14 agency authorized by law to utilize the Foreign Serv-
15 ice personnel system, such term means that other
16 agency;

17 (5) "employee" (except as provided in section
18 1002(8)) means, when used with respect to an agency
19 or to the Government generally, an officer or employee
20 (including a member of the Service) or a member of the
21 Armed Forces of the United States, the commissioned
22 corps of the Public Health Service, or the commis-
23 sioned corps of the National Oceanic and Atmospheric
24 Administration;

1 (6) "function" includes any duty, obligation,
2 power, authority, responsibility, right, privilege, discre-
3 tion, or activity;

4 (7) "Government" means the Government of the
5 United States;

6 (8) "merit principles" means the principles set out
7 in section 2301(b) of title 5, United States Code;

8 (9) "principal officer" means the officer in charge
9 of a diplomatic mission, consular mission (other than a
10 consular agency), or other Foreign Service post;

11 (10) "Secretary" means the Secretary of State,
12 except that (subject to section 201(b)) with reference to
13 the exercise of functions under this Act with respect to
14 any agency authorized by law to utilize the Foreign
15 Service personnel system, such term means the head of
16 that agency;

17 (11) "Service" or "Foreign Service" means the
18 Foreign Service of the United States; and

19 (12) "United States", when used in a geographic
20 sense, means the several States and the District of
21 Columbia.

22 (b) References in this Act or any other law to "Foreign
23 Service officers" shall, with respect to the International
24 Communication Agency, be deemed to refer to Foreign Serv-
25 ice information officers.

1 SEC. 103. MEMBERS OF THE SERVICE.—The following
2 are the members of the Service:

3 (1) Chiefs of mission, appointed under section
4 302(a)(1) or assigned under section 502(c).

5 (2) Ambassadors at large, appointed under section
6 302(a)(1).

7 (3) Members of the Senior Foreign Service, ap-
8 pointed under section 302(a)(1) or 303, who are the
9 corps of leaders and experts for the management of the
10 Service and the performance of its functions.

11 (4) Foreign Service officers, appointed under sec-
12 tion 302(a)(1), who have general responsibility for car-
13 rying out the functions of the Service.

14 (5) Foreign Service personnel, United States citi-
15 zens appointed under section 303, who provide skills
16 and services required for effective performance by the
17 Service.

18 (6) Foreign national employees, foreign nationals
19 appointed under section 303, who provide clerical, ad-
20 ministrative, technical, fiscal, and other support at For-
21 eign Service posts abroad.

22 (7) Consular agents, appointed under section 303
23 by the Secretary of State, who provide consular and
24 related services as authorized by the Secretary of State

1 at specified locations abroad where no Foreign Service
2 posts are situated.

3 SEC. 104. FUNCTIONS OF THE SERVICE.—Members of
4 the Service shall, under the direction of the Secretary—

5 (1) represent the interests of the United States in
6 relation to foreign countries and international organiza-
7 tions, and perform the functions relevant to their ap-
8 pointments and assignments, including (as appropriate)
9 functions under the Vienna Convention on Diplomatic
10 Relations, the Vienna Convention on Consular Rela-
11 tions, other international agreements to which the
12 United States is a party, the laws of the United States,
13 and orders, regulations, and directives issued pursuant
14 to law;

15 (2) provide guidance for the formulation and con-
16 duct of programs and activities of the Department and
17 other agencies which relate to the foreign relations of
18 the United States; and

19 (3) perform functions on behalf of any agency or
20 other Government establishment (including any estab-
21 lishment in the legislative or judicial branch) requiring
22 their services.

23 SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR
24 MEMBERS OF THE SERVICE; AND MINORITY RECRUIT-
25 MENT.—(a)(1) All personnel actions with respect to career

1 members and career candidates in the Service (including ap-
2 plicants for career candidate appointments) shall be made in
3 accordance with merit principles.

4 (2) For purposes of paragraph (1), the term "personnel
5 action" means—

6 (A) any appointment, promotion, assignment (in-
7 cluding assignment to any position or salary class),
8 award of performance pay or special differential,
9 within-class salary increase, separation, or performance
10 evaluation, and

11 (B) any decision, recommendation, examination, or
12 ranking provided for under this Act which relates to
13 any action referred to in subparagraph (A).

14 (b) The Secretary shall administer the provisions of this
15 Act and shall prescribe such regulations as may be necessary
16 to ensure that members of the Service, as well as applicants
17 for appointments in the Service—

18 (1) are free from discrimination on the basis of
19 race, color, religion, sex, national origin, age, handi-
20 capping condition, marital status, or political affiliation,
21 as prohibited under section 2302(b)(1) of title 5, United
22 States Code;

23 (2) are free from reprisal for—

15

1 (A) a disclosure of information by a member
2 or applicant which the member or applicant rea-
3 sonably believes evidences—

4 (i) a violation of any law, rule, or regu-
5 lation, or

6 (ii) mismanagement, a gross waste of
7 funds, an abuse of authority, or a substantial
8 and specific danger to public health or
9 safety,

10 if such disclosure is not specifically prohibited by
11 law and if such information is not specifically re-
12 quired by Executive order to be kept secret in the
13 interest of national defense or the conduct of for-
14 eign affairs; or

15 (B) a disclosure to the Special Counsel of the
16 Merit Systems Protection Board, or to the Inspec-
17 tor General of an agency (including the Inspector
18 General of the Foreign Service of the Department
19 of State and the Foreign Service) or another em-
20 ployee designated by the head of the agency to
21 receive such disclosures, of information which the
22 member or applicant reasonably believes
23 evidences—

24 (i) a violation of any law, rule, or regu-
25 lation, or

1 (ii) mismanagement, a gross waste of
2 funds, an abuse of authority, or a substantial
3 and specific danger to public health or
4 safety;

5 (3) are free to submit to officials of the Service
6 and the Department any report, evaluation, or recom-
7 mendation, including the right to submit such report,
8 evaluation, or recommendation through a separate dis-
9 sent channel, whether or not the views expressed
10 therein are in accord with approved policy, unless the
11 report, evaluation, or recommendation was submitted
12 with the knowledge that it was false or with willful
13 disregard for its truth or falsity; and

14 (4) are free from any personnel practice prohibited
15 by section 2302 of title 5, United States Code.

16 (c) This section shall not be construed as authorizing the
17 withholding of information from the Congress or the taking of
18 any action against a member of the Service who discloses
19 information to the Congress.

20 (d)(1) The Secretary shall establish a minority recruit-
21 ment program for the Service consistent with section 7201 of
22 title 5, United States Code.

23 (2) Not later than January 31 of each year, the Secre-
24 tary shall transmit to each House of the Congress a report,
25 signed by the Secretary, on the activities of the Secretary

1 under paragraph (1). Such report shall include any affirma-
2 tive action plans submitted by the Secretary under section
3 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16)
4 and any data necessary to evaluate the effectiveness of the
5 program under paragraph (1) for the preceding fiscal year,
6 together with recommendations for administrative or legisla-
7 tive action the Secretary considers appropriate.

8 (e) This section shall not be construed to extinguish or
9 lessen any effort to achieve equal employment opportunity
10 through affirmative action or any right or remedy available to
11 any employee or applicant for employment in the civil service
12 under—

13 (1) section 717 of the Civil Rights Act of 1964
14 (42 U.S.C. 2000e-16), prohibiting discrimination on
15 the basis of race, color, religion, sex, or national origin;

16 (2) sections 12 and 15 of the Age Discrimination
17 in Employment Act of 1967 (29 U.S.C. 631, 633a),
18 prohibiting discrimination on the basis of age;

19 (3) section 6(d) of the Fair Labor Standards Act
20 of 1938 (29 U.S.C. 206(d)), prohibiting discrimination
21 on the basis of sex;

22 (4) sections 501 and 505 of the Rehabilitation Act
23 of 1973 (29 U.S.C. 791, 794a), prohibiting discrimina-
24 tion on the basis of handicapping condition; or

1 (5) any provision of law, rule, or regulation pro-
2 hibiting discrimination on the basis of marital status or
3 political affiliation.

4 CHAPTER 2—MANAGEMENT OF THE SERVICE

5 SEC. 201. THE SECRETARY OF STATE.—(a) Under the
6 direction of the President, the Secretary of State shall admin-
7 ister and direct the Service and shall coordinate its activities
8 with the needs of the Department of State and other
9 agencies.

10 (b) The Secretary of State alone among the heads of
11 agencies utilizing the Foreign Service personnel system shall
12 perform the functions expressly vested in the Secretary of
13 State by this Act.

14 ~~SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN~~
15 ~~SERVICE PERSONNEL SYSTEM.—(a) The Director of the In-~~
16 ~~ternational Communication Agency, the Director of the~~
17 ~~United States International Development Cooperation~~
18 ~~Agency, the Secretary of Agriculture, and the Secretary of~~
19 ~~Commerce may utilize the Foreign Service personnel system~~
20 ~~with respect to their respective agencies in accordance with~~
21 ~~this Act.~~

22 *SEC. 202. OTHER AGENCIES UTILIZING THE FOR-*
23 *EIGN SERVICE PERSONNEL SYSTEM.—(a) The Director of*
24 *the International Communication Agency and the Director of*
25 *the United States International Development Cooperation*

1 *Agency with respect to their respective agencies, the Secre-*
2 *tary of Agriculture with respect to the Foreign Agricultural*
3 *Service, and the Secretary of Commerce with respect to those*
4 *employees of the Department of Commerce performing func-*
5 *tions transferred to the Department of Commerce from the*
6 *Department of State by Reorganization Plan Numbered 3 of*
7 *1979 may utilize the Foreign Service personnel system in*
8 *accordance with this Act.*

9 (b) Subject to section 201(b)—

10 (1) the agency heads referred to in subsection (a),
11 and

12 (2) the head of any other agency (to the extent
13 authority to utilize the Foreign Service personnel
14 system is granted to such agency head under any other
15 Act),

16 shall in the case of their respective agencies exercise the
17 functions vested in the Secretary by this Act.

18 SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZ-
19 ING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The
20 Service shall be administered to the extent practicable in a
21 manner that will assure maximum compatibility among the
22 agencies authorized by law to utilize the Foreign Service per-
23 sonnel system. To this end, the other heads of such agencies
24 shall consult regularly with the Secretary of State.

1 (b) Nothing in this chapter shall be construed as dimin-
2 ishing the authority of the head of any agency authorized by
3 law to utilize the Foreign Service personnel system.

4 SEC. 204: CONSOLIDATED AND UNIFORM ADMINIS-
5 TRATION OF THE SERVICE.—The Secretary shall on a con-
6 tinuing basis consider the need for uniformity of personnel
7 policies and procedures and for consolidation (in accordance
8 with section 23 of the State Department Basic Authorities
9 Act of 1956 (22 U.S.C. 2695)) of personnel functions among
10 agencies utilizing the Foreign Service personnel system.
11 Where feasible, the Secretary of State shall encourage (in
12 consultation with the other heads of such agencies) the devel-
13 opment of uniform policies and procedures and consolidated
14 personnel functions.

15 SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN
16 SERVICE AND OTHER GOVERNMENT PERSONNEL SYS-
17 TEMS.—The Service shall be administered to the extent
18 practicable in conformity with general policies and regula-
19 tions of the Government. The Secretary shall consult with
20 the Director of the Office of Personnel Management, the Di-
21 rector of the Office of Management and Budget, and the
22 heads of such other agencies as the President shall deter-
23 mine, in order to assure compatibility of the Foreign Service
24 personnel system with other Government personnel systems
25 to the extent practicable.

1 SEC. 206. REGULATIONS; DELEGATION OF FUNC-
2 TIONS.—(a) The Secretary may prescribe such regulations as
3 the Secretary deems appropriate to carry out functions under
4 this Act.

5 (b) The Secretary may delegate functions under this Act
6 which are vested in the Secretary to any employee of the
7 Department or any member of the Service.

8 SEC. 207. CHIEF OF MISSION.—(a) Under the direction
9 of the President, the chief of mission to a foreign country—

10 (1) shall have full responsibility for the direction,
11 coordination, and supervision of all Government em-
12 ployees in that country (except for employees under
13 the command of a United States area military com-
14 mander); and

15 (2) shall keep fully and currently informed with
16 respect to all activities and operations of the Govern-
17 ment within that country, and shall insure that all
18 Government employees in that country (except for em-
19 ployees under the command of a United States area
20 military commander) comply fully with all applicable
21 directives of the chief of mission.

22 (b) Any agency having employees in a foreign country
23 shall keep the chief of mission to that country fully and cur-
24 rently informed with respect to all activities and operations of
25 its employees in that country; and shall insure that all of its

1 employees in that country (except for employees under the
2 command of a United States area military commander)
3 comply fully with all applicable directives of the chief of
4 mission.

5 SEC. 208. DIRECTOR GENERAL OF THE FOREIGN
6 SERVICE.—There shall be a Director General of the Foreign
7 Service, who shall be appointed by the President, by and
8 with the advice and consent of the Senate, from among the
9 career members of the Senior Foreign Service. The Director
10 General shall assist the Secretary of State in the manage-
11 ment of the Service and shall perform such functions as the
12 Secretary of State may prescribe.

13 ~~SEC. 209. INSPECTOR GENERAL OF THE FOREIGN~~
14 ~~SERVICE.—~~(a) There shall be an Inspector General of the
15 Foreign Service, who shall be appointed by the President, by
16 and with the advice and consent of the Senate, from among
17 individuals exceptionally qualified for the position by virtue of
18 their integrity, their knowledge and experience in the conduct
19 of foreign affairs, and their demonstrated ability in account-
20 ing, auditing, financial analysis, law, management analysis,
21 public administration, or investigations. The Inspector Gen-
22 eral shall report to and be under the general supervision of
23 the Secretary of State. The Inspector General shall periodi-
24 cally (at least every 5 years) inspect and audit the adminis-
25 tration of activities and operations of each Foreign Service

1 post and each bureau and other operating unit of the Depart-
2 ment of State, and shall perform such other functions as the
3 Secretary of State may prescribe.

4 (b) Inspections, investigations, and audits conducted by
5 or under the direction of the Inspector General shall include
6 the systematic review and evaluation of the administration of
7 activities and operations of Foreign Service posts and bu-
8 reaus and other operating units of the Department of State,
9 including an examination of—

10 (1) whether financial transactions and accounts
11 are properly conducted, maintained, and reported;

12 (2) whether resources are being used and man-
13 aged with the maximum degree of efficiency, effective-
14 ness, and economy;

15 (3) whether the administration of activities and
16 operations meets the requirements of applicable laws
17 and regulations and, specifically, whether such admin-
18 istration is consistent with the requirements of section
19 105;

20 (4) whether there exist instances of fraud or other
21 serious problems, abuses, or deficiencies, and whether
22 adequate steps for detection, correction, and prevention
23 have been taken; and

24 (5) whether policy goals and objectives are being
25 effectively achieved and whether the interests of the

1 United States are being accurately and effectively
2 represented.

3 (c) The Inspector General shall develop and implement
4 policies and procedures for the inspection and audit activities
5 carried out under this section. These policies and procedures
6 shall be consistent with the general policies and guidelines of
7 the Government for inspection and audit activities and shall
8 comply with the standards established by the Comptroller
9 General of the United States for audits of Government agen-
10 cies, organizations, programs, activities, and functions.

11 (d)(1) The Inspector General shall keep the Secretary of
12 State fully and currently informed, by means of the reports
13 required by paragraphs (2) and (3) and otherwise, concerning
14 fraud and other serious problems, abuses, and deficiencies re-
15 lating to the administration of activities and operations ad-
16 ministered or financed by the Department of State.

17 (2) The Inspector General shall, not later than April 30
18 of each year, prepare and furnish to the Secretary of State an
19 annual report summarizing the activities of the Inspector
20 General. Such report shall include—

21 (A) a description of significant problems, abuses,
22 and deficiencies relating to the administration of activi-
23 ties and operations of Foreign Service posts, and bu-
24 reaus and other operating units of the Department of

1 State, which were disclosed by the Inspector General
2 within the previous year;

3 (B) a description of the recommendations for cor-
4 rective action made by the Inspector General during
5 the previous year with respect to significant problems,
6 abuses, or deficiencies described pursuant to subpara-
7 graph (A);

8 (C) an identification of each significant recommen-
9 dation described in previous annual reports on which
10 corrective action has not been completed;

11 (D) a summary of matters referred to prosecutive
12 authorities and the prosecutions and convictions which
13 have resulted; and

14 (E) a listing of each audit report completed by the
15 Inspector General during the previous year.

16 The Secretary of State shall transmit a copy of such annual
17 report within 30 days after receiving it to the Committee on
18 Foreign Relations of the Senate and the Committee on For-
19 eign Affairs of the House of Representatives, together with a
20 report of the Secretary of State containing any comments
21 which the Secretary of State deems appropriate. Within 60
22 days after transmitting such reports to those committees, the
23 Secretary of State shall make copies of them available to the
24 public upon request and at a reasonable cost.

1 (2) The Inspector General shall report immediately to
2 the Secretary of State whenever the Inspector General be-
3 comes aware of particularly serious or flagrant problems,
4 abuses, or deficiencies relating to the administration of activi-
5 ties and operations of Foreign Service posts or bureaus or
6 other operating units of the Department of State. The Secre-
7 tary of State shall transmit any such report to the Committee
8 on Foreign Relations of the Senate and the Committee on
9 Foreign Affairs of the House of Representatives within 7
10 days after receiving it, together with a report by the Secre-
11 tary of State containing any comments the Secretary of State
12 deems appropriate.

13 (4) Nothing in this subsection shall be construed to au-
14 thorize the public disclosure by any individual of any informa-
15 tion which is—

16 (A) specifically prohibited from disclosure by any
17 other provision of law; or

18 (B) specifically required by Executive order to be
19 kept secret in the interest of national defense or the
20 conduct of foreign affairs.

21 (e)(1) The Inspector General may receive and investi-
22 gate complaints or information from a member of the Service
23 or employee of the Department concerning the possible exist-
24 ence of an activity constituting a violation of laws or regula-
25 tions, constituting mismanagement, gross waste of funds, or

1 abuse of authority, or constituting a substantial and specific
2 danger to public health or safety.

3 (2) The Inspector General shall not, after receipt of a
4 complaint or information from a member of the Service or
5 employee of the Department, disclose the identity of such
6 individual without the consent of the individual, unless the
7 Inspector General determines such disclosure is unavoidable
8 during the course of the investigation.

9 (f) Under the general supervision of the Secretary of
10 State, the Inspector General may review activities and oper-
11 ations performed under the direction, coordination, and su-
12 pervision of chiefs of mission for the purpose of ascertaining
13 their consonance with the foreign policy of the United States
14 and their consistency with the responsibilities of the Secre-
15 tary of State and the chief of mission.

16 *SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall*
17 *be an Inspector General of the Department of State and the*
18 *Foreign Service, who shall be appointed by the President, by*
19 *and with the advice and consent of the Senate, without*
20 *regard to political affiliation from among individuals excep-*
21 *tionally qualified for the position by virtue of their integrity,*
22 *and their demonstrated ability in accounting, auditing, fi-*
23 *nancial analysis, law, management analysis, public admin-*
24 *istration, investigations, or their knowledge and experience*
25 *in the conduct of foreign affairs. The Inspector General shall*

1 report to and be under the general supervision of the Secre-
2 tary of State. Neither the Secretary of State nor any other
3 officer of the Department shall prevent or prohibit the Inspec-
4 tor General from initiating, carrying out, or completing any
5 audit or investigation, or from issuing any subpoena during
6 the course of any audit or investigation. The Inspector Gen-
7 eral shall periodically (at least every 5 years) inspect and
8 audit the administration of activities and operations of each
9 Foreign Service post and each bureau and other operating
10 unit of the Department of State, and shall perform such other
11 functions as the Secretary of State may prescribe, except that
12 the Secretary of State shall not assign to the Inspector Gen-
13 eral any program operating responsibilities.

14 (2) The Inspector General may be removed from office
15 by the President. The President shall communicate the rea-
16 sons for any such removal to both Houses of Congress.

17 (3) The Inspector General shall, in accordance with ap-
18 plicable law governing the civil service—

19 (A) appoint an Assistant Inspector General for
20 Auditing who shall have the responsibility for supervis-
21 ing the performance of auditing activities under this
22 section; and

23 (B) appoint an Assistant Inspector General for
24 Investigations who shall have the responsibility for su-

1 *pervising the performance of investigative activities*
2 *under this section.*

3 *(b) Inspections, investigations, and audits conducted by*
4 *or under the direction of the Inspector General shall include*
5 *the systematic review and evaluation of the administration of*
6 *activities and operations of Foreign Service posts and bu-*
7 *reaus and other operating units of the Department of State,*
8 *including an examination of—*

9 *(1) whether financial transactions and accounts*
10 *are properly conducted, maintained, and reported;*

11 *(2) whether resources are being used and man-*
12 *aged with the maximum degree of efficiency, effective-*
13 *ness, and economy;*

14 *(3) whether the administration of activities and*
15 *operations meets the requirements of applicable laws*
16 *and regulations and, specifically, whether such admin-*
17 *istration is consistent with the requirements of section*
18 *105;*

19 *(4) whether there exist instances of fraud or other*
20 *serious problems, abuses, or deficiencies, and whether*
21 *adequate steps for detection, correction, and prevention*
22 *have been taken; and*

23 *(5) whether policy goals and objectives are being*
24 *effectively achieved and whether the interests of the*

1 *United States are being accurately and effectively rep-*
2 *resented.*

3 *(c)(1) The Inspector General shall develop and imple-*
4 *ment policies and procedures for the inspection and audit ac-*
5 *tivities carried out under this section. These policies and pro-*
6 *cedures shall be consistent with the general policies and*
7 *guidelines of the Government for inspection and audit activi-*
8 *ties and shall comply with the standards established by the*
9 *Comptroller General of the United States for audits of Gov-*
10 *ernment agencies, organizations, programs, activities, and*
11 *functions.*

12 *(2) In carrying out the duties and responsibilities estab-*
13 *lished under this section, the Inspector General shall give*
14 *particular regard to the activities of the Comptroller General*
15 *of the United States with a view toward insuring effective*
16 *coordination and cooperation.*

17 *(3) In carrying out the duties and responsibilities estab-*
18 *lished under this section, the Inspector General shall report*
19 *expeditiously to the Attorney General whenever the Inspector*
20 *General has reasonable grounds to believe there has been a*
21 *violation of Federal criminal law.*

22 *(d)(1) The Inspector General shall keep the Secretary*
23 *of State fully and currently informed, by means of the re-*
24 *ports required by paragraphs (2) and (3) and otherwise, con-*
25 *cerning fraud and other serious problems, abuses, and defi-*

1 *ciencies relating to the adminsitration of activities and oper-*
2 *ations administered or financed by the Department of State.*

3 *(2) The Inspector General shall, not later than April 30*
4 *of each year, prepare and furnish to the Secretary of State*
5 *an annual report summarizing the activities of the Inspector*
6 *General. Such report shall include—*

7 *(A) a description of significant problems, abuses,*
8 *and deficiencies relating to the administration of activ-*
9 *ities and operations of Foreign Service posts, and bu-*
10 *reaus and other operating units of the Department of*
11 *State, which were disclosed by the Inspector General*
12 *within the reporting period;*

13 *(B) a description of the recommendations for cor-*
14 *rective action made by the Inspector General during*
15 *the reporting period with respect to significant prob-*
16 *lems, abuses, or deficiencies described pursuant to sub-*
17 *paragraph (A);*

18 *(C) an identification of each significant recom-*
19 *mendation described in previous annual reports on*
20 *which corrective action has not been completed;*

21 *(D) a summary of matters referred to prosecutive*
22 *authorities and the prosecutions and convictions which*
23 *have resulted; and*

24 *(E) a listing of each audit report completed by the*
25 *Inspector General during the reporting period.*

1 *The Secretary of State shall transmit a copy of such annual*
2 *report within 30 days after receiving it to the Committee on*
3 *Foreign Relations of the Senate and the Committee on For-*
4 *ign Affairs of the House of Representatives and to other*
5 *appropriate committees, together with a report of the Secre-*
6 *tary of State containing any comments which the Secretary*
7 *of State deems appropriate. Within 60 days after transmit-*
8 *ting such reports to those committees, the Secretary of State*
9 *shall make copies of them available to the public upon request*
10 *and at a reasonable cost.*

11 (3) *The Inspector General shall report immediately to*
12 *the Secretary of State whenever the Inspector General be-*
13 *comes aware of particularly serious or flagrant problems,*
14 *abuses, or deficiencies relating to the administration of activ-*
15 *ities and operations of Foreign Service posts or bureaus or*
16 *other operating units of the Department of State. The Secre-*
17 *tary of State shall transmit any such report to the Committee*
18 *on Foreign Relations of the Senate and the Committee on*
19 *Foreign Affairs of the House of Representatives and to other*
20 *appropriate committees within 7 days after receiving it, to-*
21 *gether with a report by the Secretary of State containing any*
22 *comments the Secretary of State deems appropriate.*

23 (4) *Nothing in this subsection shall be construed to au-*
24 *thorize the public disclosure by any individual of any infor-*
25 *mation which is—*

1 (A) specifically prohibited from disclosure by any
2 other provision of law; or

3 (B) specifically required by Executive order to be
4 kept secret in the interest of national defense or the
5 conduct of foreign affairs.

6 (e)(1) The Inspector General shall have the same
7 authority in carrying out the provisions of this section
8 as is granted under section 6 of the Inspector General
9 Act of 1978 to each Inspector General of an establish-
10 ment (as defined in section 11(2) of such Act) for car-
11 rying out the provisions of that Act, and the responsi-
12 bilities of other officers of the Government to the In-
13 spector General shall be the same as the responsibil-
14 ities of the head of an agency or establishment under
15 section 6 (b) and (c) of such Act.

16 (2) At the request of the Inspector General, em-
17 ployees of the Department and members of the Service
18 may be assigned as employees of the Inspector Gener-
19 al. The individuals so assigned and individuals ap-
20 pointed pursuant to paragraph (1) shall be responsible
21 solely to the Inspector General, and the Inspector Gen-
22 eral shall prepare the performance evaluation reports
23 for such individuals.

24 (f)(1) The Inspector General may receive and in-
25 vestigate complaints of information from a member of

1 *the Service or employee of the Department concerning*
2 *the possible existence of an activity constituting a vio-*
3 *lation of laws or regulations, constituting mismanage-*
4 *ment, gross waste of funds, or abuse of authority, or*
5 *constituting a substantial and specific danger to public*
6 *health or safety.*

7 *(2) The Inspector General shall not, after receipt*
8 *of a complaint or information from a member of the*
9 *Service or employee of the Department, disclose the*
10 *identity of such individual without the consent of such*
11 *individual, unless the Inspector General determines*
12 *such disclosure is unavoidable during the course of the*
13 *investigation.*

14 *(g) Under the general supervision of the Secretary*
15 *of State, the Inspector General may review activities*
16 *and operations performed under the direction, coordina-*
17 *tion, and supervision of chiefs of mission for the pur-*
18 *pose of ascertaining their consonance with the foreign*
19 *policy of the United States and their consistency with*
20 *the responsibilities of the Secretary of State and the*
21 *chief of mission.*

22 SEC. 210. BOARD OF THE FOREIGN SERVICE.—The
23 President shall establish a Board of the Foreign Service to
24 advise the Secretary of State on matters relating to the Serv-
25 ice, including furtherance of the objectives of maximum com-

1 patibility among agencies authorized by law to utilize the
2 Foreign Service personnel system and compatibility between
3 the Foreign Service personnel system and the other person-
4 nel systems of the Government. The Board of the Foreign
5 Service shall be chaired by a career member of the Senior
6 Foreign Service designated by the Secretary of State and
7 shall include one or more representatives of the Department
8 of State, the International Communication Agency, the
9 United States International Development Cooperation
10 Agency, the Department of Agriculture, the Department of
11 Commerce, the Office of Personnel Management, the Office
12 of Management and Budget, the Equal Employment Oppor-
13 tunity Commission, and such other agencies as the President
14 may designate.

15 SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN
16 SERVICE.—(a) The President shall establish a Board of Ex-
17 aminers for the Foreign Service to develop, and supervise the
18 administration of, examinations prescribed under section
19 301(b) to be given to candidates for appointment in the Serv-
20 ice. The Board shall consist of 15 members appointed by the
21 President (no fewer than 5 of whom shall be appointed from
22 among individuals who are not Government employees and
23 who shall be qualified for service on the Board by virtue of
24 their knowledge, experience, or training in the fields of test-
25 ing or equal employment opportunity). The Board shall in-

1 clude representatives of agencies utilizing the Foreign Serv-
2 ice personnel system and representatives of other agencies
3 which have responsibility for employment testing. The Board
4 shall be chaired by a member of the Board, designated by the
5 President, who is a member of the Service.

6 (b) The Board of Examiners shall periodically review
7 the examinations prescribed under section 301(b) in order to
8 determine—

9 (1) whether any such examination has an adverse
10 impact on the hiring, promotion, or other employment
11 opportunity of members of any race, sex, or ethnic
12 group;

13 (2) methods of minimizing any such adverse
14 impact;

15 (3) alternatives to any examinations which have
16 such an adverse impact; and

17 (4) whether such examinations are valid in rela-
18 tion to job performance.

19 The Board of Examiners shall annually report its findings
20 under this subsection to the Secretary of State and shall fur-
21 nish to the Secretary of State its recommendations for im-
22 provements in the development, use, and administration of
23 the examinations prescribed under section 301(b).

1 (c) Any vacancy or vacancies on the Board shall not
2 impair the right of the remaining members to exercise the full
3 powers of the Board.

4 CHAPTER 3—APPOINTMENTS

5 SEC. 301. GENERAL PROVISIONS RELATING TO AP-
6 POINTMENTS.—(a) Only citizens of the United States may be
7 appointed to the Service, other than for service abroad as a
8 consular agent or as a foreign national employee.

9 (b) The Secretary shall prescribe, as appropriate, writ-
10 ten, oral, physical, and other examinations for appointment to
11 the Service (other than as a chief of mission or ambassador at
12 large).

13 (c) The fact that an applicant for appointment as a For-
14 eign Service officer candidate is a veteran or disabled veteran
15 shall be considered an affirmative factor in making such ap-
16 pointments. As used in this subsection, the term “veteran or
17 disabled veteran” means an individual who is a preference
18 eligible under subparagraph (A), (B), or (C) of section 2108(3)
19 of title 5, United States Code.

20 (d)(1) Members of the Service serving under career ap-
21 pointments are career members of the Service. Members of
22 the Service serving under limited appointments are either
23 career candidates or noncareer members of the Service.

24 (2) Chiefs of mission, ambassadors at large, and minis-
25 ters serve at the pleasure of the President.

1 (3) An appointment as a Foreign Service officer is a
2 career appointment.

3 SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a)(1)
4 The President may, by and with the advice and consent of
5 the Senate, appoint an individual as a chief of mission, as an
6 ambassador at large, as a minister, as a career member of the
7 Senior Foreign Service, or as a Foreign Service officer.

8 (2)(A) The President may, by and with the advice and
9 consent of the Senate, confer the personal rank of career am-
10 bassador upon a career member of the Senior Foreign Serv-
11 ice in recognition of especially distinguished service over a
12 sustained period.

13 (B) The President may confer the personal rank of am-
14 bassador, to be effective for a period not exceeding six
15 months, upon an individual who is undertaking a special mis-
16 sion for the President if the President, before conferring such
17 rank, transmits to the Committee on Foreign Relations of the
18 Senate a written report of his intent to confer the personal
19 rank of ambassador upon such individual and transmits with
20 that report all relevant materials concerning any potential
21 conflict of interest which the proposed recipient of such per-
22 sonal rank may have with regard to the special mission.

23 (C) An individual upon whom a personal rank is con-
24 ferred under subparagraph (A) or (B) shall not receive any

1 additional compensation solely by virtue of such personal
2 rank.

3 (b) If a member of the Service is appointed to any posi-
4 tion in the executive branch by the President, by and with
5 the advice and consent of the Senate, or by the President
6 alone, the period of service in that position by the member
7 shall be regarded as an assignment under chapter 5 and the
8 member shall not, by virtue of the acceptance of such assign-
9 ment, lose his or her status as a member of the Service. A
10 member of the Senior Foreign Service who accepts such an
11 assignment may elect to continue to receive the salary of his
12 or her salary class, to remain eligible for performance pay
13 under chapter 4, and to receive the leave to which such
14 member is entitled under subchapter I of chapter 63 of title
15 5, United States Code, as a member of the Senior Foreign
16 Service, in lieu of receiving the salary and leave (if any) of
17 the position to which the member is appointed by the
18 President.

19 SEC. 303. APPOINTMENTS BY THE SECRETARY.—The
20 Secretary may appoint the members of the Service (other
21 than the members of the Service who are in the personnel
22 categories specified in section 302(a)) in accordance with this
23 Act and such regulations as the Secretary may prescribe.

24 SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—
25 (a)(1) An individual appointed or assigned to be a chief of

1 mission should possess clearly demonstrated competence to
2 perform the duties of a chief of mission, including, to the
3 maximum extent practicable, a useful knowledge of the prin-
4 cipal language or dialect of the country in which the individu-
5 al is to serve, and knowledge and understanding of the histo-
6 ry, the culture, the economic and political institutions, and
7 the interests of that country and its people.

8 (2) Given the qualifications specified in paragraph (1),
9 positions as chief of mission should normally be accorded to
10 career members of the Service, though circumstances will
11 warrant appointments from time to time of qualified individ-
12 uals who are not career members of the Service.

13 (3) Contributions to political campaigns should not be a
14 factor in the appointment of an individual as a chief of
15 mission.

16 (b)(1) In order to assist the President in selecting quali-
17 fied candidates for appointment or assignment as chiefs of
18 mission, the Secretary of State shall from time to time fur-
19 nish the President with the names of career members of the
20 Service who are qualified to serve as chiefs of mission, to-
21 gether with pertinent information about such members.

22 (2) Each individual nominated by the President to be a
23 chief of mission, ambassador at large, or minister shall, at the
24 time of nomination, file with the Committee on Foreign Rela-
25 tions of the Senate and the Speaker of the House of Repre-

1 sentatives a report of contributions made by such individual
2 and by members of his or her immediate family during the
3 period beginning on the first day of the fourth calendar year
4 preceding the calendar year of the nomination and ending on
5 the date of the nomination. The report shall be verified by the
6 oath of the nominee, taken before any individual authorized
7 to administer oaths. The chairman of the Committee on For-
8 eign Relations of the Senate shall have each such report
9 printed in the Congressional Record. As used in this para-
10 graph, the term "contribution" has the same meaning given
11 such term by section 301(8) of the Federal Election Cam-
12 paign Act of 1971 (2 U.S.C. 431(8)), and the term "immedi-
13 ate family" means the spouse of the nominee, and any child,
14 parent, grandparent, brother, or sister of the nominee and the
15 spouses of any of them.

16 SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN
17 SERVICE.—(a) Appointment to the Senior Foreign Service
18 shall be to a salary class established under section 402, and
19 not to a position.

20 (b) An individual may not be given a limited appoint-
21 ment in the Senior Foreign Service if that appointment would
22 cause the number of members of the Senior Foreign Service
23 serving under limited appointments to exceed 5 percent of
24 the total number of members of the Senior Foreign Service,
25 except that (1) members of the Senior Foreign Service as-

1 signed to the Peace Corps shall be excluded in the calcula-
2 tion and application of this limitation, and (2) members of the
3 Senior Foreign Service serving under limited appointments
4 with reemployment rights under section 310 as career ap-
5 pointees in the Senior Executive Service shall be considered
6 to be career members of the Senior Foreign Service for pur-
7 poses of this subsection.

8 SEC. 306. CAREER APPOINTMENTS.—(a) Before re-
9 ceiving a career appointment in the Service, an individual
10 shall first serve under a limited appointment as a career can-
11 didate for a trial period of service prescribed by the Secre-
12 tary. During such trial period of service, the Secretary shall
13 decide whether—

14 (1) to offer a career appointment to the candidate
15 under section 303, or

16 (2) to recommend to the President that the candi-
17 date be given a career appointment under section 302.

18 (b) Decisions by the Secretary under subsection (a) shall
19 be based upon the recommendations of boards, established by
20 the Secretary and composed entirely or primarily of career
21 members of the Service, which shall evaluate the fitness and
22 aptitude of career candidates for the work of the Service.

23 SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OF-
24 FICER CANDIDATES.—A career candidate for appointment
25 as a Foreign Service officer may not be initially assigned

1 under section 404 to a salary class higher than class FS-5 in
2 the Foreign Service Schedule unless—

3 (1) the Secretary determines in an individual case
4 that assignment to a higher salary class is warranted
5 because of the qualifications and experience of the can-
6 didate and the needs of the Service; or

7 (2) at the time such initial assignment is made,
8 the candidate is serving under a career appointment in
9 the Service and is receiving a salary at a rate equal to
10 or higher than the minimum rate payable for class
11 FS-4 in the Foreign Service Schedule.

12 SEC. 308. RECALL AND REEMPLOYMENT OF CAREER
13 MEMBERS.—(a) Whenever the Secretary determines that the
14 needs of the Service so require, the Secretary may recall any
15 retired career member of the Service for active duty in the
16 same personnel category as that member was serving at the
17 time of retirement. A retired career member may be recalled
18 under this section to any appropriate salary class or rate,
19 except that a retired career member of the Senior Foreign
20 Service may not be recalled to a salary class higher than the
21 one in which the member was serving at the time of retire-
22 ment unless appointed to such higher class by the President,
23 by and with the advice and consent of the Senate.

24 (b) Former career members of the Service may be reap-
25 pointed under section 302(a)(1) or 303, without regard to

1 section 306, in a salary class which is appropriate in light of
2 the qualifications and experience of the individual being
3 reappointed.

4 SEC. 309. LIMITED APPOINTMENTS.—A limited ap-
5 pointment in the Service, including an appointment of an in-
6 dividual who is an employee of an agency, may not exceed 5
7 years in duration and, except as provided in section 311(a),
8 may not be extended or renewed. A limited appointment in
9 the Service which is limited by its terms to a period of one
10 year or less is a temporary appointment.

11 SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIM-
12 ITED APPOINTMENT.—Any employee of an agency who ac-
13 cepts a limited appointment in the Service with the consent
14 of the head of the agency in which the employee is employed
15 shall be entitled, upon the termination of such limited ap-
16 pointment, to be reemployed in accordance with section 3597
17 of title 5, United States Code.

18 SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF
19 GOVERNMENT EMPLOYEES.—(a) The Secretary, when em-
20 ploying individuals abroad in positions to which career mem-
21 bers of the Service are not customarily assigned (including,
22 when continuity over a long term is not a significant consid-
23 eration, vacant positions normally filled by foreign national
24 employees), shall give equal consideration to employing
25 available qualified family members of members of the Service

1 or of other Government employees assigned abroad. Family
2 members so employed shall serve under renewable limited
3 appointments in the Service and may be paid either in ac-
4 cordance with the Foreign Service Schedule or a local com-
5 pensation plan established under section 408.

6 (b) Employment of family members in accordance with
7 this section may not be used to avoid fulfilling the need for
8 full-time career positions.

9 (c) ~~The Secretary of State shall prescribe regulations~~
10 ~~governing the employment at Foreign Service posts abroad of~~
11 ~~family members of Government employees by all agencies~~
12 ~~and other Government establishments (including establish-~~
13 ~~ments in the legislative or judicial branch).~~

14 SEC. 312. DIPLOMATIC AND CONSULAR COMMIS-
15 SIONS.—(a) The Secretary of State may recommend to the
16 President that a member of the Service who is a citizen of
17 the United States be commissioned as a diplomatic or consul-
18 ar officer or both. The President may, by and with the advice
19 and consent of the Senate, commission such member of the
20 Service as a diplomatic or consular officer or both. The Sec-
21 retary of State may commission as a vice consul a member of
22 the Service who is a citizen of the United States. All official
23 functions performed by a diplomatic or consular officer,
24 including a vice consul, shall be performed under such a
25 commission.

1 (b) Members of the Service commissioned under this sec-
2 tion may, in accordance with their commissions, perform any
3 function which any category of diplomatic officer (other than
4 a chief of mission) or consular officer is authorized by law to
5 perform.

6 (c) The Secretary of State shall define the limits of con-
7 sular districts.

8 CHAPTER 4—COMPENSATION

9 SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a)
10 Except as provided in section 302(b), each chief of mission
11 shall receive a salary, as determined by the President, at one
12 of the annual rates payable for levels II through V of the
13 Executive Schedule under sections 5313 through 5316 of
14 title 5, United States Code.

15 (b) The salary of a chief of mission shall commence upon
16 the effective date of appointment to that position. The official
17 services of a chief of mission are not terminated by the ap-
18 pointment of a successor, but shall continue for such addition-
19 al period, not to exceed 50 days after relinquishment of
20 charge of the mission, as the Secretary of State may deter-
21 mine. During that period, the Secretary of State may require
22 the chief of mission to perform such functions as the
23 Secretary of State deems necessary in the interest of the
24 Government.

1 SEC. 402. SALARIES OF THE SENIOR FOREIGN SERV-
 2 ICE.—The President shall prescribe salary classes for the
 3 Senior Foreign Service and shall prescribe an appropriate
 4 title for each class. Basic salary rates for the Senior Foreign
 5 Service may not exceed the maximum rate or be less than
 6 the minimum rate of basic pay payable for the Senior Execu-
 7 tive Service under section 5382 of title 5, United States
 8 Code, and shall be adjusted at the same time and in the same
 9 manner as rates of basic pay are adjusted for the Senior Ex-
 10 ecutive Service.

11 SEC. 403. FOREIGN SERVICE SCHEDULE.—(a) There is
 12 hereby established the Foreign Service Schedule, which shall
 13 apply to the members of the Service who are citizens of the
 14 United States and for whom salary rates are not otherwise
 15 provided for by this chapter.

16 (b) The Foreign Service Schedule shall have 10 salary
 17 classes, designated FS-1 through FS-10, which shall corre-
 18 spond to grades of the General Schedule under section 5332
 19 of title 5, United States Code, as follows:

Salary class:	Shall correspond to grade:
FS-1.....	GS-15
FS-2.....	GS-14
FS-3.....	GS-13
FS-4.....	GS-12
FS-5.....	GS-11
FS-6.....	GS-9
FS-7	GS-7 GS-8
FS-8	GS-6 GS-7
FS-9	GS-5 GS-6
FS-10.....	GS-4 GS-5

1 (c) Each class in the Foreign Service Schedule shall
2 have 14 salary steps. The first 10 salary steps in each class
3 shall be equal to the steps for the corresponding grade in the
4 General Schedule and the remaining 4 steps shall be in incre-
5 ments equal to the average increment of the first 10 steps in
6 that class.

7 (d) Salary may not be paid under the Foreign Service
8 Schedule at a rate in excess of the rate of basic pay for level
9 V of the Executive Schedule under section 5316 of title 5,
10 United States Code.

11 (e) The Secretary of State shall prescribe regulations to
12 carry out this section.

13 SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a)
14 The Secretary shall assign all Foreign Service officers and
15 Foreign Service personnel (other than Foreign Service per-
16 sonnel who are paid in accordance with section 407 or who
17 are family members of Government employees paid in ac-
18 cordance with a local compensation plan established under
19 section 408) to appropriate salary classes in the Foreign
20 Service Schedule.

21 (b)(1) The salary class to which a member of the Service
22 is assigned under this section shall not be affected by the
23 assignment of the member to a position classified under chap-
24 ter 5.

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

SEC. 405. PERFORMANCE PAY.—(a) Members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments,
or

(2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,
shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compen-

1 sation of any other member of the Service shall not preclude
2 the award or its payment.

3 (b) Awards of performance pay shall take into account
4 the criteria established by the Office of Personnel Manage-
5 ment for performance awards under section 5384 of title 5,
6 United States Code, and rank awards under section 4507 of
7 title 5, United States Code. Awards of performance pay
8 under this section shall be subject to the following
9 limitations:

10 (1) Not more than 50 percent of the members of
11 the Senior Foreign Service may receive performance
12 pay in any fiscal year.

13 (2) Except as provided in paragraph (3), perform-
14 ance pay for a member of the Senior Foreign Service
15 may not exceed 20 percent of the annual rate of basic
16 salary for that member.

17 (3) Not more than 6 percent of the members of
18 the Senior Foreign Service may receive performance
19 pay in any fiscal year in an amount which exceeds the
20 percentage limitation specified in paragraph (2). Pay-
21 ments under this paragraph to a member of the Senior
22 Foreign Service may not exceed \$10,000 in any fiscal
23 year, except that payments of up to \$20,000 in any
24 fiscal year may be made under this paragraph to up to

1 1 percent of the members of the Senior Foreign
2 Service.

3 (4) The total amount of basic salary plus perform-
4 ance pay received in any fiscal year by any member of
5 the Senior Foreign Service may not exceed the salary
6 payable for level I of the Executive Schedule under
7 section 5312 of title 5, United States Code, as in effect
8 at the end of that fiscal year.

9 (c) The Secretary shall determine the amount of per-
10 formance pay available under subsection (b)(2) each year for
11 distribution among the members of the Senior Foreign Serv-
12 ice and shall distribute performance pay to particular individ-
13 uals on the basis of recommendations by selection boards es-
14 tablished under section 602.

15 (d) The President may grant awards of performance pay
16 under subsection (b)(3) on the basis of annual recommenda-
17 tions by the Secretary of State of members of the Senior
18 Foreign Service who are nominated by their agencies as
19 having performed especially meritorious or distinguished
20 service. Recommendations by the Secretary of State under
21 this subsection shall be made on the basis of recommenda-
22 tions by special interagency selection boards established by
23 the Secretary of State for the purpose of reviewing and eval-
24 uating the nominations of agencies.

1 SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a)

2 Any member of the Service receiving a salary under the For-
3 eign Service Schedule shall be advanced to the next higher
4 salary step in the member's class at the beginning of the first
5 applicable pay period following the completion by that
6 member of a period of—

7 (1) 52 calendar weeks of service in each of salary
8 steps 1 through 9, and

9 (2) 104 calendar weeks of service in each of
10 salary steps 10 through 13,

11 unless the performance of the member during that period is
12 found in a review by a selection board established under sec-
13 tion 602 to fall below the standards of performance for his or
14 her salary class.

15 (b) The Secretary may grant, on the basis of especially
16 meritorious service, to any member of the Service receiving
17 an increase in salary under subsection (a), an additional
18 salary increase to any higher step in the salary class in which
19 the member is serving.

20 SEC. 407. SALARIES FOR FOREIGN SERVICE PERSON-
21 NEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The
22 Secretary may establish salary rates at rates lower than
23 those established for the Foreign Service Schedule by section
24 403 for the Foreign Service personnel described in subsection
25 (b). The rates established under this subsection may be no

1 less than the then applicable minimum wage rate specified in
2 section 6(a)(1) of the Fair Labor Standards Act of 1938 (29
3 U.S.C. 206(a)(1)).

4 (b) The Secretary may pay Foreign Service personnel
5 who are recruited abroad, who are not available or are not
6 qualified for assignment to another Foreign Service post, and
7 who perform duties of a more routine nature than are gener-
8 ally performed by Foreign Service personnel assigned to
9 class FS-10 in the Foreign Service Schedule, in accordance
10 with the salary rates established under subsection (a).

11 SEC. 408. LOCAL COMPENSATION PLANS.—(a)(1) The
12 Secretary shall establish compensation plans for foreign na-
13 tional employees of the Service, and for United States citi-
14 zens employed in the Service abroad who are family mem-
15 bers of Government employees. To the extent consistent with
16 the public interest, each compensation plan shall be based
17 upon prevailing wage rates and compensation practices (in-
18 cluding participation in local social security plans) for corre-
19 sponding types of positions in the locality of employment,
20 except that such compensation plans shall provide for pay-
21 ment of wages to those family members of Government em-
22 ployees who are paid in accordance with such plans at a rate
23 which is no less than the then applicable minimum wage rate
24 specified in section 6(a)(1) of the Fair Labor Standards Act of
25 1938 (29 U.S.C. 206(a)(1)). Any compensation plan estab-

1 lished under this section may include provision for leaves of
2 absence with pay for foreign national employees in accord-
3 ance with prevailing law and employment practices in the
4 locality of employment without regard to any limitation con-
5 tained in section 6310 of title 5, United States Code.

6 (2) The Secretary may make supplemental payments to
7 any civil service annuitant who is a former foreign national
8 employee of the Service (or who is receiving an annuity as a
9 survivor of a former foreign national employee of the Service)
10 in order to offset exchange rate losses, if the annuity being
11 paid such annuitant is based on—

12 (A) a salary that was fixed in a foreign currency
13 that has appreciated in value in terms of the United
14 States dollar; and

15 (B) service in a country in which (as determined
16 by the Secretary) the average retirement benefits being
17 received by individuals who retired from competitive
18 local organizations are superior to the local currency
19 value of civil service annuities plus any other retire-
20 ment benefits payable to foreign national employees
21 who retired during similar time periods and after com-
22 parable careers with the Government.

23 (b) For the purpose of performing functions abroad, any
24 agency or other Government establishment (including any es-
25 tablishment in the legislative or judicial branch) may adminis-

1 ter employment programs for its employees who are foreign
2 nationals or are family members of Government employees
3 assigned abroad, in accordance with the applicable provisions
4 of this Act.

5 (c) The Secretary of State may prescribe regulations
6 governing the establishment and administration of local com-
7 pensation plans under this section by all agencies and other
8 Government establishments.

9 SEC. 409. SALARIES OF CONSULAR AGENTS.—The
10 Secretary of State shall establish the salary rate for each
11 consular agent. Such salary rate shall be established after
12 taking into account the workload of the consular agency and
13 the prevailing wage rates in the locality where the agency is
14 located, except that, in the case of a consular agent who is a
15 citizen of the United States, the salary rate may not be less
16 than the then applicable minimum wage rate specified in sec-
17 tion 6(a)(1) of the Fair Labor Standards Act of 1938 (29
18 U.S.C. 206(a)(1)).

19 SEC. 410. COMPENSATION FOR IMPRISONED FOREIGN
20 NATIONAL EMPLOYEES.—(a) The head of any agency or
21 other Government establishment (including any in the legisla-
22 tive or judicial branch) may compensate any current or
23 former foreign national employee, or any foreign national
24 who is or was employed under a personal services contract,
25 who is or has been imprisoned by a foreign government if the

1 Secretary of State (or, in the case of a foreign national em-
2 ployed by the Central Intelligence Agency, the Director of
3 Central Intelligence) determines that such imprisonment is
4 the result of the employment of the foreign national by the
5 United States. Such compensation may not exceed the
6 amount that the agency head determines approximates the
7 salary and other benefits to which the foreign national would
8 have been entitled had he or she been employed during the
9 period of such imprisonment. Such compensation may be paid
10 under such terms and conditions as the Secretary of State
11 deems appropriate. For purposes of this section, an agency
12 head shall have the same powers with respect to imprisoned
13 foreign nationals who are or were employed by the agency as
14 an agency head has under subchapter VII of chapter 55 of
15 title 5, United States Code, to the extent that such powers
16 are consistent with this section.

17 (b) Any period of imprisonment of a current or former
18 foreign national employee which is compensable under this
19 section shall be considered for purposes of any other em-
20 ployee benefit to be a period of employment by the Govern-
21 ment, except that a period of imprisonment shall not be
22 creditable—

23 (1) for purposes of subchapter III of chapter 83 of
24 title 5, United States Code, unless it is expressly cred-
25 itable under that subchapter; or

1 (2) for purposes of subchapter I of chapter 81 of
2 title 5, United States Code, unless the individual was
3 employed by the Government at the time of his or her
4 imprisonment.

5 (c) No compensation or other benefit shall be awarded
6 under this section unless a claim therefor is filed within 3
7 years after—

8 (1) the termination of the period of imprisonment
9 giving rise to the claim, or

10 (2) the date of the claimant's first opportunity
11 thereafter to file such a claim, as determined by the
12 appropriate agency head.

13 (d) The Secretary of State may prescribe regulations
14 governing payments under this section by all agencies and
15 other Government establishments.

16 SEC. 411. TEMPORARY SERVICE AS PRINCIPAL OFFI-
17 CER.—For such time (in excess of such minimum period as
18 the Secretary of State may establish) as any member of the
19 Service is temporarily in charge of a Foreign Service post
20 during the absence or incapacity of the principal officer, that
21 member shall receive, in addition to the basic salary paid to
22 the member *and notwithstanding sections 5535 and 5536 of*
23 *title 5, United States Code*, an amount equal to that portion
24 (which the Secretary of State may determine to be appropri-
25 ate) of the difference between such salary and the basic

1 salary provided for the principal officer, or, if there is no
2 principal officer, for the former principal officer.

3 SEC. 412. SPECIAL DIFFERENTIALS AND PREMIUM
4 PAY.—(a) The Secretary may pay special differentials, in ad-
5 dition to compensation otherwise authorized, to Foreign
6 Service officers who are required because of the nature of
7 their assignments to perform additional work on a regular
8 basis in substantial excess of normal requirements. A special
9 differential may not be paid under this subsection with re-
10 spect to work which is the basis for premium pay under sub-
11 section (b).

12 (b) Members of the Service (other than members of the
13 Senior Foreign Service) shall be entitled to receive premium
14 pay to the extent provided under subchapter V of chapter 55
15 of title 5, United States Code.

16 SEC. 413. DEATH GRATUITY.—(a) The Secretary may
17 provide for payment of a gratuity to the surviving dependents
18 of any Foreign Service employee, who dies as a result of
19 injuries sustained in the performance of duty abroad, in an
20 amount equal to one year's salary at the time of death. Any
21 death gratuity payment made under this section shall be held
22 to have been a gift and shall be in addition to any other
23 benefit payable from any source.

24 (b) A death gratuity payment shall be made under this
25 section only if the survivor entitled to payment under subsec-

1 tion (c) is entitled to elect monthly compensation under sec-
2 tion 8133 of title 5, United States Code, because the death
3 resulted from an injury (excluding a disease proximately
4 caused by the employment) sustained in the performance of
5 duty, without regard to whether such survivor elects to
6 waive compensation under such section 8133.

7 (c) A death gratuity payment under this section shall be
8 made as follows:

9 (1) First, to the widow or widower.

10 (2) Second, to the child, or children in equal
11 shares, if there is no widow or widower.

12 (3) Third, to the dependent parent, or dependent
13 parents in equal shares, if there is no widow, widower,
14 or child.

15 If there is no survivor entitled to payment under this subsec-
16 tion, no payment shall be made.

17 (d) As used in this section—

18 (1) the term "Foreign Service employee" means
19 any member of the Service or United States repre-
20 sentative to an international organization or commis-
21 sion; and

22 (2) each of the terms "widow", "widower",
23 "child", and "parent" shall have the same meaning
24 given each such term by section 8101 of title 5, United
25 States Code.

23 (B) that the position is required to be designated
24 as a Foreign Service position—

1 (i) to provide opportunities for rotation of
2 members of the Service from assignments abroad
3 to assignments in the United States, or

4 (ii) to provide training for future assign-
5 ments abroad, and

6 (2) that the advantages of continuity of incum-
7 bency or specialized skill in the position do not
8 outweigh the advantages from its designation under
9 this subsection.

10 SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSI-
11 TIONS.—(a)(1) The Secretary (with the concurrence of the
12 agency concerned) may assign a member of the Service to
13 any position classified under section 501 in which that
14 member is eligible to serve (other than as chief of mission or
15 ambassador at large), and may assign a member from one
16 such position to another such position as the needs of the
17 Service may require.

18 (2) In making assignments under paragraph (1), the
19 Secretary shall assure that a member of the Service is not
20 assigned to a position at a post in a particular geographic
21 area exclusively on the basis of the race, ethnicity, or religion
22 of that member.

23 (b) Positions designated as Foreign Service positions
24 normally shall be filled by the assignment of members of the
25 Service to those positions. Subject to that limitation—

1 (1) Foreign Service positions may be filled by the
2 assignment for specified tours of duty of employees of
3 the Department and, under interagency agreements,
4 employees of other agencies; and

5 (2) Senior Foreign Service positions may also be
6 filled by other members of the Service.

7 (c) The President may assign a career member of the
8 Service to serve as charge d'affaires or otherwise as the head
9 of a mission (or as the head of a United States office abroad
10 which is designated under section 102(a)(3) by the Secretary
11 of State as diplomatic in nature) for such period as the public
12 interest may require.

13 SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNA-
14 TIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The
15 Secretary may (with the concurrence of the agency, organi-
16 zation, or other body concerned) assign a member of the
17 Service for duty—

18 (1) in a non-Foreign Service (including Senior Ex-
19 ecutive Service) position in the Department or another
20 agency, or with an international organization, interna-
21 tional commission, or other international body;

22 (2) with a domestic or international trade, labor,
23 agricultural, scientific, or other conference, congress,
24 or gathering;

1 (3) for special instruction, training, or orientation
2 at or with a public or private organization; and

3 (4) in the United States (or in any territory or
4 possession of the United States or in the Common-
5 wealth of Puerto Rico), with a State or local gov-
6 ernment, a public or private nonprofit organization
7 (including an educational institution), or a Member or
8 office of the Congress.

9 (b)(1) The salary of a member of the Service assigned
10 under this section shall be the higher of the salary which that
11 member would receive but for the assignment under this sec-
12 tion or the salary of the position to which that member is
13 assigned.

14 (2) The salary of a member of the Service assigned
15 under this section shall be paid from appropriations made
16 available for the payment of salaries and expenses of the
17 Service. Such appropriations may be reimbursed for all or
18 any part of the costs of salaries and other benefits for mem-
19 bers assigned under this section.

20 (3) A member of the Service assigned under subsection
21 (a)(4) to a Member or office of the Congress shall be deemed
22 to be an employee of the House of Representatives or the
23 Senate, as the case may be, for purposes of payment of travel
24 and other expenses.

1 (c) Assignments under this section may not exceed four
2 years of continuous service for any member of the Service
3 unless the Secretary approves an extension of such period for
4 that member because of special circumstances.

5 SEC. 504. SERVICE IN THE UNITED STATES AND
6 ABROAD.—(a) Career members of the Service shall be obli-
7 gated to serve abroad and shall be expected to serve abroad
8 for substantial portions of their careers. The Secretary shall
9 establish by regulation limitations upon assignments of mem-
10 bers of the Service within the United States. A member of
11 the Service may not be assigned to duty within the United
12 States for any period of continuous service exceeding eight
13 years unless the Secretary approves an extension of such
14 period for that member because of special circumstances.

15 (b) Consistent with the needs of the Service, the Secre-
16 tary shall seek to assign each career member of the Service
17 who is a citizen of the United States to duty within the
18 United States at least once during each period of fifteen
19 years that the member is in the Service.

20 (c) The Secretary may grant a sabbatical to a career
21 member of the Senior Foreign Service for not to exceed
22 eleven months in order to permit the member to engage in
23 study or uncompensated work experience which will contrib-
24 ute to the development and effectiveness of the member. A
25 sabbatical may be granted under this subsection under condi-

1 tions specified by the Secretary in light of the provisions of
2 section 3396(c) of title 5, United States Code, which apply to
3 sabbaticals granted to members of the Senior Executive
4 Service.

5 SEC. 505. TEMPORARY DETAILS.—A period of duty of
6 not more than six months in duration by a member of the
7 Service shall be considered a temporary detail and shall not
8 be considered an assignment within the meaning of this
9 chapter.

10 CHAPTER 6—PROMOTION AND RETENTION

11 SEC. 601. PROMOTIONS.—(a) Career members of the
12 Senior Foreign Service are promoted by appointment under
13 section 302(a) to a higher salary class in the Senior Foreign
14 Service. Members of the Senior Foreign Service serving
15 under career candidate appointments or noncareer appoint-
16 ments are promoted by appointment under section 303 to a
17 higher salary class in the Senior Foreign Service. Foreign
18 Service officers, and Foreign Service personnel who are
19 assigned to a class in the Foreign Service Schedule, are pro-
20 moted by appointment under section 302(a) as career mem-
21 bers of the Senior Foreign Service or by assignment under
22 section 404 to a higher salary class in the Foreign Service
23 Schedule.

24 (b) Except as provided in section 606(a), promotions
25 of—

1 (1) members of the Senior Foreign Service, and
2 (2) members of the Service assigned to a salary
3 class in the Foreign Service Schedule (including pro-
4 motions of such members into the Senior Foreign
5 Service),

6 shall be based upon the recommendations and rankings of
7 selection boards established under section 602, except that
8 the Secretary may by regulation specify categories of career
9 members, and categories of career candidates, assigned to
10 salary classes in the Foreign Service Schedule who may
11 receive promotions on the basis of satisfactory performance.

12 (c)(1) Promotions into the Senior Foreign Service shall
13 be recommended by selection boards only from among career
14 members of the Service assigned to class FS-1 in the For-
15 eign Service Schedule who request that they be considered
16 for promotion into the Senior Foreign Service. The Secretary
17 shall prescribe the length of the period after such a request is
18 made (within any applicable time in class limitation estab-
19 lished under section 607(a)) during which such members may
20 be considered by selection boards for entry into the Senior
21 Foreign Service. A request by a member for consideration for
22 promotion into the Senior Foreign Service under this subsec-
23 tion may be withdrawn by the member, but if it is withdrawn,
24 that member may not thereafter request consideration for
25 promotion into the Senior Foreign Service.

1 (2) Decisions by the Secretary on the numbers of indi-
2 viduals to be promoted into and retained in the Senior For-
3 eign Service shall be based upon a systematic long-term pro-
4 jection of personnel flows and needs designed to provide—

5 (A) a regular, predictable flow of recruitment in
6 the Service;

7 (B) effective career development patterns to meet
8 the needs of the Service; and

9 (C) a regular, predictable flow of talent upward
10 through the ranks and into the Senior Foreign Service.

11 (3) The affidavit requirements of sections 3332 and
12 3333(a) of title 5, United States Code, shall not apply with
13 respect to a member of the Service who has previously com-
14 plied with those requirements and who subsequently is pro-
15 moted by appointment to any class in the Senior Foreign
16 Service without a break in service.

17 SEC. 602. SELECTION BOARDS.—(a) The Secretary
18 shall establish selection boards to evaluate the performance
19 of members of the Senior Foreign Service and members of
20 the Service assigned to a salary class in the Foreign Service
21 Schedule. Selection boards shall, in accordance with precepts
22 prescribed by the Secretary, rank the members of a salary
23 class on the basis of relative performance and may make rec-
24 ommendations for—

25 (1) promotions in accordance with section 601;

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1 (2) awards of performance pay under section
2 405(c);

3 (3) denials of within class step increases under
4 section 406(a);

5 (4) offer or renewal of limited career extensions
6 under section 607(b); and

7 (5) such other actions as the Secretary may pre-
-8 scribe by regulation.

9 (b) All selection boards established under this section
10 shall include public members. The Secretary shall assure that
11 a substantial number of women and members of minority
12 groups are appointed to each selection board established
13 under this section.

14 SEC. 603. BASIS FOR SELECTION BOARD REVIEW.—

15 (a) Recommendations and rankings by selection boards shall
16 be based upon records of the character, ability, conduct, qual-
17 ity of work, industry, experience, dependability, usefulness,
18 and general performance of members of the Service. Such
19 records may include reports prepared by or on behalf of the
20 Inspector General ~~of the Foreign Service~~, *of the Department*
21 *of State and the Foreign Service*, performance evaluation
22 reports of supervisors, records of commendations, awards,
23 reprimands, and other disciplinary actions, and (with respect
24 to members of the Senior Foreign Service) records of current
25 and prospective assignments.

1 (b) Precepts for selection boards shall include a descrip-
2 tion of the needs of the Service for performance require-
3 ments, skills, and qualities, which are to be considered in
4 recommendations for promotion. The precepts for selection
5 boards responsible for recommending promotions into and
6 within the Senior Foreign Service shall emphasize perform-
7 ance which demonstrates the strong policy formulation capa-
8 bilities, executive leadership qualities, and highly developed
9 functional and area expertise, which are required for the
10 Senior Foreign Service.

11 SEC. 604. CONFIDENTIALITY OF RECORDS.—The rec-
12 ords described in section 603(a) shall be maintained in
13 accordance with regulations prescribed by the Secretary.
14 Except to the extent that they pertain to the receipt, dis-
15 bursement, and accounting for public funds, such records
16 shall be confidential and subject to inspection only by the
17 President, the Secretary, such employees of the Government
18 as may be authorized by law or assigned by the Secretary to
19 work on such records, the legislative and appropriations com-
20 mittees of the Congress charged with considering legislation
21 and appropriations for the Service, and representatives duly
22 authorized by such committees. Access to such records relat-
23 ing to a member of the Service shall be granted to such
24 member, upon written request.

1 SEC. 605. IMPLEMENTATION OF SELECTION BOARD
2 RECOMMENDATIONS.—(a) Recommendations for promotion
3 made by selection boards shall be submitted to the Secretary
4 in rank order by salary class or in rank order by specializa-
5 tion within a salary class. The Secretary shall make promo-
6 tions and, with respect to career appointments into or within
7 the Senior Foreign Service, shall make recommendations to
8 the President for promotions, in accordance with the rankings
9 of the selection boards.

10 (b) Notwithstanding subsection (a), in special circum-
11 stances set forth by regulation, the Secretary may remove
12 the name of an individual from the rank order list submitted
13 by a selection board or delay the promotion of an individual
14 named in such a list.

15 SEC. 606. OTHER BASES FOR INCREASING PAY.—(a)
16 The Secretary may pursuant to a recommendation of the
17 Foreign Service Grievance Board, an equal employment
18 opportunity appeals examiner, or the Special Counsel of the
19 Merit Systems Protection Board, and shall pursuant to a de-
20 cision or order of the Merit Systems Protection Board—

21 (1) recommend to the President a promotion of a
22 member of the Service under section 302(a);

23 (2) promote a member of the Service under sec-
24 tion 303;

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1 (3) grant performance pay to a member of the
2 Senior Foreign Service under section 405(c); or

3 (4) grant a within-class salary increase under sec-
4 tion 406 to a member of the Service who is assigned
5 to a salary class in the Foreign Service Schedule.

6 (b) In implementing subsection (a) of this section and in
7 cases in which the Secretary has exercised the authority of
8 section 605(b), the Secretary may, in special circumstances
9 set forth by regulation, make retroactive promotions, grant
10 performance pay, make retroactive within-class salary
11 increases, and recommend retroactive promotions by the
12 President.

13 SEC. 607. RETIREMENT FOR EXPIRATION OF TIME IN
14 CLASS.—(a)(1) The Secretary shall, by regulation, establish
15 maximum time in class limitations for—

16 (A) career members of the Senior Foreign
17 Service,

18 (B) Foreign Service officers, and

19 (C) other career members of the Service who are
20 in such occupational categories as may be designated
21 by the Secretary and who are assigned to salary
22 classes in the Foreign Service Schedule to which For-
23 eign Service officers may also be assigned.

24 (2) Maximum time in class limitations under this subsec-
25 tion (which may not be less than 3 years for career members

1 of the Senior Foreign Service) may apply with respect to the
2 time a member may remain in a single salary class or in a
3 combination of salary classes.

4 (3) The Secretary may, by regulation, increase or
5 decrease any maximum time in class established under this
6 subsection as the needs of the Service may require. If maxi-
7 mum time in class is decreased, the Secretary shall provide
8 any member of the Service who is in a category and salary
9 class subject to the new time in class limitation an opportuni-
10 ty to remain in class (notwithstanding the new limitation) for
11 a period which is at least as long as the shorter of—

12 (A) the period which the member would have
13 been permitted to remain in class but for the decrease
14 in maximum time in class, or

15 (B) such minimum period as the Secretary deter-
16 mines is necessary to provide members of the Service
17 who are in the same category and salary class as that
18 member a reasonable opportunity to be promoted into
19 the next higher class or combination of classes, as the
20 case may be.

21 (b) Members of the Service whose maximum time in
22 class under subsection (a) expires—

23 (1) after they have attained the highest salary
24 class for their respective occupational categories, or

1 (2) in the case of members of the Senior Foreign
2 Service, while they are in salary classes designated by
3 the Secretary,
4 may continue to serve only under limited extensions of their
5 career appointments. Such limited extensions may not exceed
6 5 years in duration and may be granted and renewed by the
7 Secretary ~~in light of the recommendations of selection boards~~
8 ~~established under section 602 and the needs of the Service in~~
9 *accordance with the recommendations of selection boards*
10 *established under section 602.* Members of the Service serv-
11 ing under such limited career extensions shall continue to be
12 career members of the Service.

13 (c) Any member of the Service—

14 (1) whose maximum time in class under subsec-
15 tion (a) expires and who is not promoted to a higher
16 class or combination of classes, as the case may be, or

17 (2) whose limited career extension under subsec-
18 tion (b) expires and is not renewed,
19 shall be retired from the Service and receive benefits in
20 accordance with section 609.

21 SEC. 608. RETIREMENT BASED ON RELATIVE PER-
22 FORMANCE.—(a) The Secretary shall prescribe regulations
23 concerning the standards of performance to be met by career
24 members of the Service who are citizens of the United
25 States. Whenever a selection board review indicates that the

1 performance of such a career member of the Service may not
2 meet the standards of performance for his or her class, the
3 Secretary shall provide for administrative review of the per-
4 formance of the member. The review shall include an oppor-
5 tunity for the member to be heard.

6 (b) In any case where the administrative review con-
7 ducted under subsection (a) substantiates that a career
8 member of the Service has failed to meet the standards of
9 performance for his or her class, the member shall be retired
10 from the Service and receive benefits in accordance with sec-
11 tion 609.

12 SEC. 609. RETIREMENT BENEFITS.—(a) A member of
13 the Service—

14 (1) who is retired under section 607(c)(2); or

15 (2) who is retired under section 607(c)(1) or
16 608(b)—

17 (A) after becoming eligible for voluntary re-
18 tirement under section 811, or

19 (B) from the Senior Foreign Service or while
20 assigned to class FS-1 in the Foreign Service
21 Schedule,

22 shall receive retirement benefits in accordance with section
23 806.

1 (b) Any member of the Service (other than a member to
2 whom subsection (a) applies) who is retired under section
3 607(c)(1) or 608(b) shall receive—

4 (1) one-twelfth of a year's salary at his or her
5 then current salary rate for each year of service and
6 proportionately for a fraction of a year, but not exceed-
7 ing a total of one year's salary at his or her then cur-
8 rent salary rate, payable without interest from the For-
9 eign Service Retirement and Disability Fund in 3 equal
10 installments, such installments to be paid on January 1
11 of each of the first 3 calendar years beginning after the
12 retirement of the member (except that in special cases,
13 the Secretary of State may accelerate or combine such
14 installments); and

15 (2) a refund as provided in section 815 of the con-
16 tributions made by the member to the Foreign Service
17 Retirement and Disability Fund, except that in lieu of
18 such refund a member who has at least 5 years of
19 service credit toward retirement under the Foreign
20 Service Retirement and Disability System (excluding
21 military and naval service) may elect to receive an an-
22 nuity, computed under section 806, commencing at age
23 60.

24 In the event that a member of the Service has elected to
25 receive retirement benefits under paragraph (2) and dies

1 before reaching age 60, his or her death shall be considered a
2 death in service within the meaning of section 809.

3 SEC. 610. SEPARATION FOR CAUSE.—(a)(1) The Sec-
4 retary may separate any member from the Service for such
5 cause as will promote the efficiency of the Service.

6 (2) A member of the Service who is a member of the
7 Senior Foreign Service or is assigned to a salary class in the
8 Foreign Service Schedule and who either (A) is serving under
9 a career appointment, or (B) if separation is to be by reason
10 of misconduct, is serving under a limited appointment, shall
11 not be separated from the Service under this section until the
12 member has been granted a hearing before the Foreign Serv-
13 ice Grievance Board and the cause for separation established
14 at such hearing, unless the member waives in writing the
15 right to a hearing. The hearing provided under this para-
16 graph shall be in accordance with the hearing procedures ap-
17 plicable to grievances under section 1106 and shall be in lieu
18 of any other administrative procedure authorized or required
19 by this or any other law.

20 (b) Any participant in the Foreign Service Retirement
21 and Disability System who is separated under subsection (a)
22 shall be entitled to receive a refund as provided in section
23 815 of the contributions made by the participant to the For-
24 eign Service Retirement and Disability Fund. Except in
25 cases where the Secretary determines that separation was

1 based in whole or in part on the ground of disloyalty to the
2 United States, a participant who has at least 5 years of serv-
3 ice credit toward retirement under the Foreign Service Re-
4 tirement and Disability System (excluding military and naval
5 service) may elect, in lieu of such refund, to an annuity, com-
6 puted under section 806, commencing at age 60.

7 SEC. 611. TERMINATION OF LIMITED APPOINT-
8 MENTS.—Except as provided in section 610(a)(2), the Secre-
9 tary may terminate at any time the appointment of any
10 member of the Service serving under a limited appointment
11 who is in the Senior Foreign Service, who is assigned to a
12 salary class in the Foreign Service Schedule, or who is a
13 family member of a Government employee serving under a
14 local compensation plan established under section 408.

15 SEC. 612. TERMINATION OF APPOINTMENTS OF CON-
16 SULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—
17 (a) The Secretary of State may terminate at any time the
18 appointment of any consular agent in light of the criteria and
19 procedures normally followed in the locality in similar
20 circumstances.

21 (b) The Secretary may terminate at any time the ap-
22 pointment of any foreign national employee in light of the
23 criteria and procedures normally followed in the locality in
24 similar circumstances.

1 CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER
2 DEVELOPMENT, TRAINING, AND ORIENTATION

3 SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The
4 Secretary of State shall maintain and operate the Foreign
5 Service Institute (hereinafter in this chapter referred to as
6 the "Institute"), originally established under section 701 of
7 the Foreign Service Act of 1946, in order to promote career
8 development within the Service and to provide necessary
9 training and instruction in the field of foreign relations to
10 members of the Service and to employees of the Department
11 and of other agencies. The Institute shall be headed by a
12 Director, who shall be appointed by the Secretary of State.

13 (b) To the extent practicable, the Secretary of State
14 shall provide training under this chapter which meets the
15 needs of all agencies, and other agencies shall avoid duplicat-
16 ing the facilities and training provided by the Secretary of
17 State through the Institute and otherwise.

18 SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a)
19 The Secretary shall establish foreign language proficiency re-
20 quirements for members of the Service who are to be as-
21 signed abroad in order that Foreign Service posts abroad will
22 be staffed by individuals having a useful knowledge of the
23 language or dialect common to the country in which the post
24 is located.

1 (b) The Secretary of State shall arrange for appropriate
2 language training of members of the Service by the Institute
3 or otherwise in order to assist in meeting the requirements
4 established under subsection (a).

5 SEC. 703. TRAINING AUTHORITIES.—(a) In the exer-
6 cise of functions under this chapter, the Secretary of State
7 may—

8 (1) provide for the general nature of the training
9 and instruction to be furnished by the Institute, includ-
10 ing functional and geographic area specializations;

11 (2) correlate training and instruction furnished by
12 the Institute with courses given at other Government
13 institutions and at private institutions which furnish
14 training and instruction useful in the field of foreign
15 affairs;

16 (3) encourage and foster programs complementary
17 to those furnished by the Institute, including through
18 grants and other gratuitous assistance to nonprofit in-
19 stitutions cooperating in any of the programs under
20 this chapter;

21 (4)(A) employ in accordance with the civil service
22 laws such personnel as may be necessary to carry out
23 the provisions of this chapter, and

24 (B) if and to the extent determined to be neces-
25 sary by the Secretary of State, obtain without regard

1 to the provisions of law governing appointments in the
2 competitive service, by appointment or contract (sub-
3 ject to the availability of appropriations), the services
4 of individuals to serve as language instructors, lin-
5 guists, and other academic and training specialists (in-
6 cluding, in the absence of suitably qualified United
7 States citizens, qualified individuals who are not citi-
8 zens of the United States); and

9 (5) acquire such real and personal property and
10 equipment as may be necessary for the establishment,
11 maintenance, and operation of the facilities necessary
12 to carry out the provisions of this chapter without
13 regard to section 3709 of the Revised Statutes of the
14 United States (41 U.S.C. 5) and section 302 of the
15 Federal Property and Administrative Services Act of
16 1949 (41 U.S.C. 252).

17 (b) In furtherance of the objectives of this Act, the Sec-
18 retary may—

19 (1) pay the tuition and other expenses of members
20 of the Service and employees of the Department who
21 are assigned or detailed in accordance with law for
22 special instruction or training, including orientation,
23 language, and career development training;

1 (2) pay the salary (excluding premium pay or any
2 special differential under section 411) of members of
3 the Service selected and assigned for training; and

4 (3) provide special monetary or other incentives to
5 encourage members of the Service to acquire or retain
6 proficiency in foreign languages or special abilities
7 needed in the Service.

8 (c) In the implementation of this chapter, the Secretary
9 shall seek to design training programs which will encourage
10 and foster career development for the various categories of
11 members of the Service.

12 (d) The Secretary may provide to family members of
13 members of the Service or of employees of the Department or
14 other agencies, in anticipation of their assignment abroad or
15 while abroad—

16 (1) appropriate orientation and language training;
17 and

18 (2) functional training for anticipated prospective
19 employment under section 311.

20 SEC. 704. TRAINING GRANTS.—(a) To facilitate train-
21 ing provided to members of families of Government employ-
22 ees under this chapter, the Secretary may make grants (by
23 advance payment or by reimbursement) to family members
24 attending approved programs of study. No such grant may

1 exceed the amount actually expended for necessary costs in-
2 curred in conjunction with such attendance.

3 (b) If a member of the Service who is assigned abroad,
4 or a member of his or her family, is unable to participate in
5 language training furnished by the Government through the
6 Institute or otherwise, the Secretary may compensate that
7 individual for all or part of the costs of language training,
8 related to the assignment abroad, which is undertaken at a
9 public or private institution.

10 SEC. 705. CAREER COUNSELING.—(a) In order to fa-
11 cilitate their transition from the Service, the Secretary may
12 provide (by contract or otherwise, subject to the availability
13 of appropriations) professional career counseling, advice, and
14 placement assistance to members of the Service, and to
15 former members of the Service who were assigned to receive
16 counseling and assistance under this subsection before they
17 were separated from the Service, other than those separated
18 for cause.

19 (b)(1) The Secretary may facilitate the employment of
20 spouses of members of the Service by—

21 (A) providing regular career counseling for such
22 spouses;

23 (B) maintaining a centralized system for catalog-
24 ing their skills and the various governmental and non-

1 governmental employment opportunities available to
2 them abroad; and

3 (C) otherwise assisting them in obtaining employ-
4 ment abroad.

5 (2) The Secretary shall establish a family liaison office
6 to carry out this subsection and such other functions as the
7 Secretary may determine.

8 CHAPTER 8—FOREIGN SERVICE RETIREMENT AND
9 DISABILITY SYSTEM

10 SEC. 801. ADMINISTRATION OF THE SYSTEM.—In ac-
11 cordance with such regulations as the President may pre-
12 scribe, the Secretary of State shall administer the Foreign
13 Service Retirement and Disability System (hereinafter in this
14 chapter referred to as the “System”), originally established
15 pursuant to section 18 of the Act of May 24, 1924 (43 Stat.
16 144).

17 SEC. 802. MAINTENANCE OF THE FUND.—The Secre-
18 tary of the Treasury shall maintain the special fund known as
19 the Foreign Service Retirement and Disability Fund (herein-
20 after in this chapter referred to as the “Fund”), originally
21 created by section 18 of the Act of May 24, 1924 (43 Stat.
22 144).

23 SEC. 803. PARTICIPANTS.—(a) The following members
24 of the Service (hereinafter in this chapter referred to as “par-
25 ticipants”) shall be entitled to the benefits of the System:

1 (1) Every member serving under a career appoint-
2 ment or as a career candidate under section 306—

3 (A) in the Senior Foreign Service, or

4 (B) who is assigned to a salary class in the
5 Foreign Service Schedule.

6 (2) Every chief of mission, who is not a partici-
7 pant under paragraph (1), who—

8 (A) has served as chief of mission for an ag-
9 gregate period of 20 years or more, and

10 (B) has paid into the Fund a special contri-
11 bution for each year of such service in accordance
12 with section 805.

13 (b) Any otherwise eligible member of the Service who is
14 appointed to a position in the executive branch by the Presi-
15 dent, by and with the advice and consent of the Senate, or by
16 the President alone, shall not by virtue of the acceptance of
17 such appointment cease to be eligible to participate in the
18 System.

19 SEC. 804. DEFINITIONS.—As used in this chapter,
20 unless otherwise specified, the term—

21 (1) “annuitant” means any individual, including a
22 former participant or survivor, who meets all require-
23 ments for an annuity from the Fund under this or any
24 other Act and who has filed a claim for such annuity;

25 (2) “child” means an individual—

85

1 (A) who—

2 (i) is an offspring or adopted child of the
3 participant,

4 (ii) is a stepchild or recognized natural
5 child of the participant and who received
6 more than one-half support from the partici-
7 pant, or

8 (iii) lived with the participant, for whom
9 a petition of adoption was filed by the par-
10 ticipant, and who is adopted by the surviving
11 spouse of the participant after the death of
12 the participant;

13 (B) who is unmarried; and

14 (C) who—

15 (i) is under the age of 18 years,

16 (ii) is a student under the age of 22
17 years (for purposes of this clause, an individ-
18 ual whose 22d birthday occurs before July 1
19 or after August 31 of the calendar year in
20 which that birthday occurs, and while the in-
21 dividual is a student, is deemed to become
22 22 years of age on the first July 1 which
23 occurs after that birthday), or

24 (iii) is incapable of self-support because
25 of a physical or mental disability which was

1 incurred before the individual reached the
2 age of 18 years;

3 (3) "court" means any court of any State or of
4 the District of Columbia;

5 (4) "court order" means any court decree of di-
6 vorce or annulment, or any court order or court-
7 approved property settlement agreement incident to
8 any court decree of divorce or annulment;

9 (5) "Foreign Service normal cost" means the
10 level percentage of payroll required to be deposited in
11 the Fund to meet the cost of benefits payable under
12 the System (computed in accordance with generally ac-
13 cepted actuarial practice on an entry-age basis) less the
14 value of retirement benefits earned under another re-
15 tirement system for Government employees and less
16 the cost of credit allowed for military and naval
17 service;

18 (6) "former spouse" means a former wife or hus-
19 band of a participant or former participant who was
20 married to such participant ~~for not less than 10 years~~
21 during periods of service by that participant which are
22 creditable under section 816;

23 (7) "Fund balance" means the sum of—

24 (A) the investments of the Fund calculated at
25 par value, plus

1 (B) the cash balance of the Fund on the
2 books of the Treasury;

3 (8) "lump-sum credit" means the compulsory and
4 special contributions to the credit of a participant or
5 former participant in the Fund plus interest on such
6 contributions at 4 percent a year compounded annually
7 to December 31, 1976, and after such date, for a par-
8 ticipant who separates from the Service after complet-
9 ing at least 1 year of civilian service and before com-
10 pleting 5 years of such service, at the rate of 3 percent
11 per year to the date of separation (except that interest
12 shall not be paid for a fractional part of a month in the
13 total service or on compulsory and special contributions
14 from an annuitant for recall service or other service
15 performed after the date of separation which forms the
16 basis for annuity);

17 (9) "military and naval service" means honorable
18 active service—

19 (A) in the Armed Forces of the United
20 States,

21 (B) in the Regular or Reserve Corps of the
22 Public Health Service after June 30, 1960, or

23 (C) as a commissioned officer of the National
24 Oceanic and Atmospheric Administration, or a
25 predecessor organization, after June 30, 1961,

1 but does not include service in the National Guard
2 except when ordered to active duty in the service of
3 the United States;

4 (10) "pro rata share", in the case of any former
5 spouse of any participant or former participant, means
6 a percentage which is equal to the percentage that (A)
7 the number of years during which the former spouse
8 was married to the participant during the creditable
9 service of that participant is of (B) the total number of
10 years of such creditable service;

11 (11) (10) "student" means a child regularly pur-
12 suing a full-time course of study or training in resi-
13 dence in a high school, trade school, technical or voca-
14 tional institute, junior college, college, university, or
15 comparable recognized educational institution (for pur-
16 poses of this paragraph, a child who is a student shall
17 not be deemed to have ceased to be a student during
18 any period between school years, semesters, or terms if
19 the period of nonattendance does not exceed 5 calendar
20 months and if the child shows to the satisfaction of the
21 Secretary of State that he or she has a bona fide inten-
22 tion of continuing to pursue his or her course of study
23 during the school year, semester, or term immediately
24 following such period);

1 ~~(12)~~ (11) "surviving spouse" means the surviving
2 wife or husband of a participant or annuitant who, in
3 the case of a death in Service or marriage after retire-
4 ment, was married to the participant or annuitant for
5 at least one year immediately preceding his or her
6 death or is a parent of a child born of the marriage;
7 and

8 ~~(12)~~ (12) "unfunded liability" means the estimat-
9 ed excess of the present value of all benefits payable
10 from the Fund over the sum of—

11 (A) the present value of deductions to be
12 withheld from the future basic salary of partici-
13 pants and of future agency contributions to be
14 made on their behalf, plus

15 (B) the present value of Government pay-
16 ments to the Fund under section 821, plus

17 (C) the Fund balance as of the date the un-
18 funded liability is determined.

19 SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 per-
20 cent of the basic salary received by each participant shall be
21 deducted from the salary and contributed to the Fund for the
22 payment of annuities, cash benefits, refunds, and allowances.
23 An equal amount shall be contributed by the Department
24 from the appropriations or fund used for payment of the
25 salary of the participant. The Department shall deposit in the

1 Fund the amounts deducted and withheld from basic salary
2 and the amounts contributed by the Department.

3 (b) Each participant shall be deemed to consent and
4 agree to such deductions from basic salary. Payment less
5 such deductions shall be a full and complete discharge and
6 acquittance of all claims and demands whatsoever for all reg-
7 ular services during the period covered by such payment,
8 except the right to the benefits to which the participant shall
9 be entitled under this Act, notwithstanding any law, rule, or
10 regulation affecting the salary of the individual.

11 (c)(1) If a member of the Service who is under another
12 retirement system for Government employees becomes a par-
13 ticipant in the System by direct transfer, the total contribu-
14 tions and deposits of that member that would otherwise be
15 refundable on separation (except voluntary contributions), in-
16 cluding interest thereon, shall be transferred to the Fund ef-
17 fective as of the date such member becomes a participant in
18 the System. Each such member shall be deemed to consent
19 to the transfer of such funds, and such transfer shall be a
20 complete discharge and acquittance of all claims and de-
21 mands against the other Government retirement fund on ac-
22 count of service rendered by such member prior to becoming
23 a participant in the System.

24 (2) A member of the Service whose contributions are
25 transferred to the Fund pursuant to paragraph (1) shall not

1 be required to make additional contributions for periods of
 2 service for which required contributions were made to the
 3 other Government retirement fund; nor shall any refund be
 4 made to any such member on account of contributions made
 5 during any period to the other Government retirement fund
 6 at a higher rate than that fixed by subsection (d).

7 (d)(1) Any participant credited with civilian service after
 8 July 1, 1924—

9 (A) for which no retirement contributions, deduc-
 10 tions, or deposits have been made, or

11 (B) for which a refund of such contributions, de-
 12 ductions, or deposits has been made which has not
 13 been redeposited,

14 may make a special contribution to the Fund equal to the
 15 following percentages of basic salary received for such
 16 service:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970	7

17 (2) Notwithstanding paragraph (1), a special contribu-
 18 tion for prior nondeposit service as a National Guard techni-
 19 cian which would be creditable toward retirement under sub-
 20 chapter III of chapter 83 of title 5, United States Code, and
 21 for which a special contribution has not been made, shall be
 22 equal to the special contribution for such service computed in
 23 accordance with the schedule in paragraph (1) multiplied by

1 the percentage of such service that is creditable under section
2 816.

3 (3) Special contributions under this subsection shall in-
4 clude interest computed from the midpoint of each service
5 period included in the computation, or from the date refund
6 was paid, to the date of payment of the special contribution
7 or commencing date of annuity, whichever is earlier. Interest
8 shall be compounded at the annual rate of 4 percent to De-
9 cember 31, 1976, and 3 percent thereafter. No interest shall
10 be charged on special contributions for any period of separa-
11 tion from Government service which began before October 1,
12 1956. Special contributions may be paid in installments (in-
13 cluding by allotment of pay) when authorized by the Secre-
14 tary of State.

15 (e) Contributions shall not be required for any period of
16 military and naval service or for any period for which credit
17 is allowed to individuals of Japanese ancestry under section
18 816 for periods of internment during World War II.

19 (f) A participant or survivor may make a special contri-
20 bution at any time before receipt of annuity and may author-
21 ize payment by offset against initial annuity accruals.

22 SEC. 806. COMPUTATION OF ANNUITIES.—(a) The an-
23 nuity of a participant shall be equal to 2 percent of his or her
24 average basic salary for the highest 3 consecutive years of
25 service multiplied by the number of years, not exceeding 35,

1 of service credit obtained in accordance with sections 816
2 and 817, except that the highest 3 years of service shall be
3 used in computing the annuity of any participant who serves
4 an assignment under section 302(b) in a position to which the
5 participant was appointed by the President and whose con-
6 tinuity of service in that position is interrupted prior to retire-
7 ment by appointment or assignment to any other position de-
8 termined by the Secretary of State to be of comparable im-
9 portance. In determining the aggregate period of service
10 upon which the annuity is to be based, the fractional part of a
11 month, if any, shall not be counted. The annuity shall be
12 reduced by 10 percent of any special contribution described
13 in section 805(d) which is due for service for which no contri-
14 butions were made and which remains unpaid unless the par-
15 ticipant elects to eliminate the service involved for purposes
16 of annuity computation.

17 ~~(b)(1)(A) Except to the extent provided otherwise under~~
18 ~~a written election under subparagraph (B) or (C), if at the~~
19 ~~time of retirement a participant or former participant is mar-~~
20 ~~ried (or has a former spouse who has not remarried before~~
21 ~~attaining age 60), the participant shall receive a reduced an-~~
22 ~~nuity and provide a survivor annuity for his or her spouse~~
23 ~~under this subsection or former spouse under section 814(b),~~
24 ~~or a combination of such annuities, as the case may be.~~

1 (B) At the time of retirement, a married participant or
2 former participant and his or her spouse may jointly elect in
3 writing to waive a survivor annuity for that spouse under this
4 section (or under section 814(b) if the spouse later qualifies as
5 a former spouse under section 804(6)), or to reduce such sur-
6 vivor annuity by designating a portion of the annuity of the
7 participant as the base for the survivor benefit.

8 (C) If a participant or former participant has a former
9 spouse, the participant and such former spouse may jointly
10 elect in writing to waive a survivor annuity under section
11 814(b) for that former spouse if the election is made (i) before
12 the end of the 12-month period after the divorce or annul-
13 ment involving that former spouse becomes final or (ii) at the
14 time of retirement, whichever occurs first.

15 (2) The annuity of a participant or former participant
16 providing a survivor benefit under this section (or section
17 814(b)), excluding any portion of the annuity not designated
18 or committed as a base for any survivor annuity, shall be
19 reduced by $2\frac{1}{2}$ percent of the first \$3,600 plus 10 percent of
20 any amount over \$3,600. The reduction under this paragraph
21 shall be calculated before any reduction under section
22 814(a)(5).

23 (3)(A) If a former participant entitled to receive a re-
24 duced annuity under this subsection dies and is survived by a
25 spouse, a survivor annuity shall be paid to the surviving

1 spouse equal to 55 percent of the full amount of the partici-
2 pant's annuity computed under subsection (a), or 55 percent
3 of any lesser amount elected as the base for the survivor
4 benefit under paragraph (1)(B).

5 (B) Notwithstanding subparagraph (A), the amount of
6 the annuity calculated under subparagraph (A) for a surviving
7 spouse in any case in which there is also a surviving former
8 spouse of the participant who qualifies for an annuity under
9 section 814(b) may not exceed 55 percent of the portion (if
10 any) of the base for survivor benefits which remains available
11 under section 814(b)(4)(B).

12 (C) An annuity payable from the Fund to a surviving
13 spouse under this paragraph shall commence on the day the
14 participant dies and shall terminate on the last day of the
15 month before the surviving spouse's death or remarriage
16 before attaining age 60. If such a survivor annuity is termi-
17 nated because of remarriage, it shall be restored at the same
18 rate commencing on the date such remarriage is terminated if
19 any lump sum paid upon termination of the annuity is re-
20 turned to the Fund.

21 (b)(1)(A) Any married participant who retires shall re-
22 ceive a reduced annuity and provide a maximum survivor
23 annuity for his or her spouse unless the participant elects in
24 writing at the time of retirement to waive or reduce the maxi-
25 mum survivor annuity for his or her spouse. Any election by

1 any participant under the preceding sentence shall not be
2 considered valid unless the participant establishes to the sat-
3 isfaction of the Secretary of State (i) that the spouse has been
4 notified of the loss of or reduction in survivor benefits or (ii)
5 that the participant has complied with such notification re-
6 quirements as the Secretary of State shall, by regulation pre-
7 scribe.

8 (B) If a participant or former participant has a former
9 spouse for whose benefit a survivor annuity is required to be
10 provided by the terms of any court order under section
11 820(b)(2), the participant shall receive a reduced annuity
12 and provide a survivor annuity for that former spouse under
13 section 814(a).

14 (2) The annuity of a participant or former participant,
15 excluding any portion of the annuity not designated or com-
16 mitted as a base for any survivor annuity, shall be reduced
17 by $2\frac{1}{2}$ percent of the first \$3,600 plus 10 percent of any
18 amount over \$3,600.

19 (3)(A) If a former participant entitled to receive a re-
20 duced annuity under this subsection dies and is survived by
21 a spouse, a survivor annuity shall be paid to the surviving
22 spouse equal to 55 percent of the full amount of the partici-
23 pant's annuity computed under subsection (a), or 55 percent
24 of any lesser amount elected as the base for the survivor bene-
25 fit under paragraph (1)(A).

1 (B) Notwithstanding subparagraph (A), the amount of
2 the annuity calculated under subpagraph (A) for a surviv-
3 ing spouse in any case in which there is also a surviving
4 former spouse of the participant who qualifies for an annuity
5 under section 814(a) may not exceed 55 percent of the por-
6 tion (if any) of the base for survivor benefits which remains
7 available under section 814(a)(4)(B).

8 (4) An annuity payable from the Fund to a surviving
9 spouse shall commence on the day after the annuitant dies
10 and shall terminate on the last day of the month before (A)
11 the death of the surviving spouse, or (B) if the surviving
12 spouse remarries prior to attaining the age of 60 years, such
13 remarriage. If a survivor annuity is terminated because of
14 remarriage, it shall be restored at the same rate commencing
15 on the date such remarriage is terminated if any lump sum
16 paid upon termination of the annuity is returned to the
17 Fund.

18 (c)(1) If an annuitant who was a participant dies and is
19 survived by a spouse and by a child or children, in addition to
20 the annuity payable to the surviving spouse, there shall be
21 paid to or on behalf of each child an annuity equal to the
22 smaller of—

23 (A) \$900, or

24 (B) \$2,700 divided by the number of children.

1 (2) If an annuitant who was a participant dies and is not
2 survived by a spouse but by a child or children, each surviv-
3 ing child shall be paid an annuity equal to the smaller of—

4 (A) \$1,080, or

5 (B) \$3,240 divided by the number of children.

6 (3) The amounts specified in this subsection are subject
7 to—

8 (A) cost-of-living adjustments as specified under
9 section 826(c)(3), and

10 (B) the minimum specified in subsection (l)(2) of
11 this section.

12 (d) If a surviving spouse dies or the annuity of a child is
13 terminated, the annuities of any remaining children shall be
14 recomputed and paid as though such spouse or child had not
15 survived the participant. If the annuity to a surviving child
16 who has not been receiving an annuity is initiated or re-
17 sumed, the annuities of any other children shall be recomput-
18 ed and paid from that date as though the annuities to all
19 currently eligible children in the family were then being
20 initiated.

21 (e) The annuity payable to a child under subsection (c)
22 or (d) shall begin on the day after the participant dies, or if
23 the child is not then qualified, on the first day of the month in
24 which the child becomes eligible. The annuity of a child shall

1 terminate on the last day of the month which precedes the
2 month in which eligibility ceases.

3 (f) At the time of retirement an unmarried participant
4 who does not have a former spouse for whose benefit a reduc-
5 tion is made under subsection (b) may elect to receive a re-
6 duced annuity and to provide for an annuity equal to 55 per-
7 cent of the reduced annuity payable after his or her death to
8 a beneficiary whose name is designated in writing to the Sec-
9 retary of State. The annuity payable to a participant making
10 such election shall be reduced by 10 percent of an annuity
11 computed under subsection (a) and by 5 percent of an annuity
12 so computed for each full 5 years the designated beneficiary
13 is younger than the retiring participant, but such total reduc-
14 tion shall not exceed 40 percent. No such election of a re-
15 duced annuity payable to a beneficiary shall be valid until the
16 participant has satisfactorily passed a physical examination
17 as prescribed by the Secretary of State. The annuity payable
18 to a beneficiary under this subsection shall begin on the day
19 after the annuitant dies and shall terminate on the last day of
20 the month preceding the death of the beneficiary. An annuity
21 which is reduced under this subsection (or any similar prior
22 provision of law) shall, effective the first day of the month
23 following the death of the beneficiary named under this sub-
24 section, be recomputed and paid as if the annuity had not
25 been so reduced.

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1 (g) A participant or former participant who was unmar-
2 ried at retirement and who later marries may, within one
3 year after such marriage, irrevocably elect in writing to re-
4 ceive a reduced annuity and to provide a survivor annuity for
5 the spouse (if such spouse qualifies as a surviving spouse
6 under section ~~804(12)~~ 804(11)). Receipt by the Secretary of
7 State of notice of an election under this subsection voids pro-
8 spectively any election previously made under subsection (f).
9 The reduction in annuity required by an election under this
10 subsection shall be computed and the amount of the survivor
11 annuity shall be determined in accordance with subsections
12 (b) (2) and (3). The annuity reduction or recomputation shall
13 be effective the first day of the month beginning one year
14 after the date of marriage.

15 (h) A surviving spouse ~~or surviving former spouse~~ of any
16 participant or former participant shall not become entitled to
17 a survivor annuity or to the restoration of a survivor annuity
18 payable from the Fund unless the survivor elects to receive it
19 instead of any other survivor annuity to which he or she may
20 be entitled under this or any other retirement system for
21 Government employees on the basis of a marriage to some-
22 one other than that participant.

23 (i)~~(1)~~ Any married annuitant who reverts to retired
24 status with entitlement to a supplemental annuity under sec-
25 tion 823 shall, unless the annuitant ~~and his or her spouse~~

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1 ~~jointly elect~~ *elects* in writing to the contrary at that time,
2 have the supplemental annuity reduced by 10 percent to pro-
3 vide a supplemental survivor annuity for his or her spouse.
4 Such supplemental survivor annuity shall be equal to 55 per-
5 cent of the supplemental annuity of the annuitant and shall
6 be payable to a surviving spouse to whom the annuitant was
7 married at the time of reversion to retired status or to whom
8 the annuitant had been married for at least one year at the
9 time of death or who is a parent of a child born of the mar-
10 riage.

11 ~~(2) The Secretary of State shall issue regulations to pro-~~
12 ~~vide for the application of paragraph (1) of this subsection~~
13 ~~and of section 823 of this Act in any case in which an annu-~~
14 ~~itant has a former spouse who was married to the participant~~
15 ~~during the period of recall service or who qualifies for an~~
16 ~~annuity under section 814(a) or (b).~~

17 (j) An annuity which is reduced under this section or
18 any similar prior provision of law to provide a survivor bene-
19 fit for a spouse shall, if the marriage of the participant to
20 such spouse is dissolved, be recomputed and paid for each full
21 month during which an annuitant is not married (or is remar-
22 ried if there is no election in effect under the following sen-
23 tence) as if the annuity had not been so reduced, *subject to*
24 *any reduction required to provide a survivor benefit under*
25 *section 814(a).* Upon remarriage the retired participant may

1 irrevocably elect, by means of a signed writing received by
2 the Secretary within one year after such remarriage, to re-
3 ceive during such marriage a reduction in annuity for the
4 purpose of allowing an annuity for the new spouse of the
5 annuitant in the event such spouse survives the annuitant.
6 Such reduction shall be equal to the reduction in effect imme-
7 diately before the dissolution of the previous marriage (unless
8 such reduction is adjusted under section ~~814(b)(5)~~ 814(a)(5)),
9 and shall be effective the first day of the first month begin-
10 ning one year after the date of remarriage. A survivor annu-
11 ity elected under this subsection shall be treated in all re-
12 spects as a survivor annuity under subsection (b).

13 (k) The Secretary of State shall, on an annual basis—

14 (1) inform each participant of his or her right of
15 election under subsections (g) and (j); and

16 (2) to the maximum extent practicable, inform
17 spouses or former spouses of participants or former
18 participants of their rights under this section and sec-
19 tion 814.

20 (l)(1) The monthly rate of an annuity payable under this
21 chapter to an annuitant, other than a child, shall not be less
22 than the smallest primary insurance amount, including any
23 cost-of-living increase added to that amount, authorized to be
24 paid from time to time under title II of the Social Security
25 Act (42 U.S.C. 401 et seq.).

1 (2) The monthly rate of an annuity payable under this
2 chapter to a surviving child shall not be less than the small-
3 est primary insurance amount, including any cost-of-living in-
4 crease added to that amount, authorized to be paid from time
5 to time under title II of the Social Security Act (42 U.S.C.
6 401 et seq.) or three times such primary insurance amount
7 divided by the number of surviving children entitled to an
8 annuity, whichever is the lesser.

9 (3) This subsection does not apply to an annuitant or to
10 a survivor who is or becomes entitled to receive from the
11 United States an annuity or retired pay under any other civil-
12 ian or military retirement system, benefits under title II of
13 the Social Security Act (42 U.S.C. 401 et seq.), a pension,
14 veterans' compensation, or any other periodic payment of a
15 similar nature, when the monthly rate thereof is equal to or
16 greater than the smallest primary insurance amount, includ-
17 ing any cost-of-living increase added to that amount, author-
18 ized to be paid from time to time under title II of the Social
19 Security Act (42 U.S.C. 401 et seq.).

20 SEC. 807. PAYMENT OF ANNUITY.—(a) Except as oth-
21 erwise provided, the annuity of a former participant who has
22 met the eligibility requirements for an annuity shall com-
23 mence on the day after separation from the Service or on the
24 day after pay ceases. The annuity of a former participant

1 who is entitled to a deferred annuity under this Act shall
2 become effective on the day he or she attains age 60.

3 (b) The annuity to a survivor shall become effective as
4 otherwise specified but shall not be paid until the survivor
5 submits an application for such annuity, supported by such
6 proof of eligibility as the Secretary of State may require. If
7 such application or proof of eligibility is not submitted during
8 the lifetime of an otherwise eligible individual, no annuity
9 shall be due or payable to his or her estate.

10 (c) An individual entitled to annuity from the Fund may
11 decline to accept all or any part of the annuity by submitting
12 a signed waiver to the Secretary of State. The waiver may
13 be revoked in writing at any time. Payment of the annuity
14 waived may not be made for the period during which the
15 waiver was in effect.

16 (d) Recovery of overpayments under this chapter may
17 not be made from an individual when, in the judgment of the
18 Secretary of State, the individual is without fault and recov-
19 ery would be against equity and good conscience or adminis-
20 tratively infeasible.

21 SEC. 808. RETIREMENT FOR DISABILITY OR INCA-
22 PACITY.—(a) Any participant who has at least 5 years of
23 service credit toward retirement under the System (excluding
24 military and naval service) and who becomes totally disabled
25 or incapacitated for useful and efficient service by reason of

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1 disease, illness, or injury (not due to vicious habits, intemper-
2 ance, or willful conduct of the participant) shall, upon his or
3 her own application or upon order of the Secretary, be retired
4 on an annuity computed as prescribed in section 806. If the
5 disabled or incapacitated participant has less than 20 years of
6 service credit toward retirement under the System at the
7 time of retirement, his or her annuity shall be computed on
8 the assumption that the participant has had 20 years of serv-
9 ice, except that the additional service credit that may accrue
10 to a participant under this sentence shall in no case exceed
11 the difference between his or her age at the time of retire-
12 ment and age 60.

13 (b) Before being retired under this section, the partici-
14 pant shall be given a physical examination by one or more
15 duly qualified physicians or surgeons designated by the Sec-
16 retary of State to conduct examinations. Disability or inca-
17 pacity shall be determined by the Secretary of State on the
18 basis of the advice of such physicians or surgeons. Unless the
19 disability or incapacity is permanent, like examinations shall
20 be made annually until the annuitant has attained age 60. If
21 the Secretary of State determines on the basis of the advice
22 of one or more duly qualified physicians or surgeons conduct-
23 ing such examinations that an annuitant has recovered to the
24 extent that he or she can return to duty, the annuitant may
25 apply for reinstatement or reappointment in the Service

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1 within 1 year from the date recovery is determined. Upon
2 application, the Secretary shall reinstate such recovered an-
3 nuitant in the class in which the annuitant was serving at
4 time of retirement, or the Secretary may, taking into consid-
5 eration the age, qualifications, and experience of such annu-
6 itant, and the present class of his or her contemporaries in
7 the Service, appoint or recommend that the President ap-
8 point the annuitant to a higher class. Payment of the annuity
9 shall continue until a date 6 months after the date of the
10 examination showing recovery or until the date of reinstate-
11 ment or reappointment in the Service, whichever is earlier.
12 Fees for examinations under this section, together with rea-
13 sonable traveling and other expenses incurred in order to
14 submit to examination, shall be paid out of the Fund. If the
15 annuitant fails to submit to examination as required under
16 this subsection, payment of the annuity shall be suspended
17 until continuance of the disability or incapacity is satisfactori-
18 ly established.

19 (c) If a recovered annuitant whose annuity is discontin-
20 ued is for any reason not reinstated or reappointed in the
21 Service, he or she shall be considered to have been separated
22 within the meaning of section 810 as of the date of retire-
23 ment for disability or incapacity and shall, after the discon-
24 tinuance of the annuity, be entitled to the benefits of that

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1 section or of section 815, except that he or she may elect
2 voluntary retirement if eligible under section 811.

3 (d) No participant shall be entitled to receive an annuity
4 under this Act and compensation for injury or disability to
5 himself or herself under subchapter I of chapter 81 of title 5,
6 United States Code, covering the same period of time, except
7 that a participant may simultaneously receive both an annu-
8 ity under this section and scheduled disability payments
9 under section 8107 of title 5, United States Code. This sub-
10 section shall not bar the right of any claimant to the greater
11 benefit conferred by either this Act or such subchapter for
12 any part of the same period of time. Neither this subsection
13 nor any provision of such subchapter shall be construed to
14 deny the right of any participant to receive an annuity under
15 this Act and to receive concurrently any payment under such
16 subchapter by reason of the death of any other individual.

17 (e) Notwithstanding any other law, the right of any indi-
18 vidual entitled to an annuity under this Act shall not be af-
19 fected because such person has received an award of compen-
20 sation in a lump sum under section 8135 of title 5, United
21 States Code, except that where such annuity is payable on
22 account of the same disability for which compensation under
23 such section has been paid, so much of such compensation as
24 has been paid for any period extended beyond the date such
25 annuity becomes effective, as determined by the Secretary of

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1 Labor, shall be refunded to the Department of Labor, to be
2 paid into the Federal Employees' Compensation Fund.
3 Before such individual receives such annuity, he or she
4 shall—

5 (1) refund to the Department of Labor the amount
6 representing such commuted payments for such ex-
7 tended period, or

8 (2) authorize the deduction of such amount from
9 the annuity payable under this Act, which amount
10 shall be transmitted to the Department of Labor for re-
11 imbursement to such Fund.

12 Deductions from such annuity may be made from accrued
13 and accruing payments, or may be prorated against and paid
14 from accruing payments in such manner as the Secretary of
15 Labor shall determine, whenever the Secretary of Labor finds
16 that the financial circumstances of the annuitant warrant de-
17 ferred refunding.

18 (f) A claim may be allowed under this section only if the
19 application is filed with the Secretary of State before the par-
20 ticipant is separated from the Service or within one year
21 thereafter. This time limitation may be waived by the Secre-
22 tary of State for a participant who at the date of separation
23 from the Service or within one year thereafter is mentally
24 incompetent, if the application is filed with the Secretary of
25 State within one year from the date of restoration of the par-

1 participant to competency or the appointment of a fiduciary,
2 whichever is earlier.

3 SEC. 809. DEATH IN SERVICE.—(a) If a participant
4 dies and no claim for annuity is payable under this Act, the
5 lump-sum credit shall be paid in accordance with section 815.

6 (b) If a participant who has at least 18 months of civil-
7 ian service credit toward retirement under the System dies
8 before retirement or other separation from the Service and is
9 survived by a spouse or former spouse qualifying for an annu-
10 ity under section ~~814(b)~~ 814(a), such surviving spouse shall
11 be entitled to an annuity equal to 55 percent of the annuity
12 computed in accordance with subsections (e) and (g) of this
13 section and section 806(a) and any surviving former spouse
14 shall be entitled to an annuity under section ~~814(b)~~ 814(a) as
15 if the participant died after being entitled to an annuity under
16 this chapter. If the participant had less than 3 years credit-
17 able civilian service at the time of death, the survivor annuity
18 shall be computed on the basis of the average salary for the
19 entire period of such service.

20 (c) If a participant who has at least 18 months of civil-
21 ian service credit toward retirement under the System dies
22 before retirement or other separation from the Service and is
23 survived by a spouse and a child or children, each surviving
24 child shall be entitled to an annuity computed in accordance
25 with subsections (c)(1) and (d) of section 806.

1 (d) If a participant who has at least 18 months of civil-
2 ian service credit toward retirement under the System dies
3 before retirement or other separation from the Service and is
4 not survived by a spouse, but by a child or children, each
5 surviving child shall be entitled to an annuity computed in
6 accordance with subsections (c)(2) and (d) of section 806.

7 (e) If, at the time of his or her death, the participant had
8 less than 20 years of service credit toward retirement under
9 the System, the annuity payable in accordance with subsec-
10 tion (b) shall be computed in accordance with section 806 on
11 the assumption he or she has had 20 years of service, except
12 that the additional service credit that may accrue to a de-
13 ceased participant under this subsection shall in no case
14 exceed the difference between his or her age on the date of
15 death and age 60. In all cases arising under this subsection
16 or subsection (b), (c), (d), or (g), it shall be assumed that the
17 deceased participant was qualified for retirement on the date
18 of death.

19 (f) If an annuitant who elected a reduced annuity dies in
20 service after being recalled under section 308 and is survived
21 by a spouse or former spouse entitled to a survivor annuity
22 based on such an election, such survivor annuity shall be
23 computed as if the recall service had otherwise terminated on
24 the day of death and the annuity of the deceased had been
25 resumed in accordance with section 823. If such death occurs

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1 after the annuitant had completed sufficient recall service to
2 attain eligibility for a supplemental annuity, a surviving
3 spouse or surviving former spouse who was married to the
4 participant during the period of recall service shall be entitled
5 to elect, in addition to any other benefits and in lieu of a
6 refund of retirement contributions made during the recall
7 service, a supplemental survivor annuity computed and paid
8 under section 806(i) as if the recall service had otherwise
9 terminated. If the annuitant had completed sufficient recall
10 service to attain eligibility to have his or her annuity deter-
11 mined anew, a surviving spouse or such a surviving former
12 spouse may elect, in lieu of any other survivor benefit under
13 this chapter, to have the rights of the annuitant redetermined
14 and to receive a survivor annuity computed under subsection
15 (b) on the basis of the total service of the annuitant.

16 *Any surviving former spouse who was married to the*
17 *participant during the period of recall service shall be entitled*
18 *to have the same election rights with respect to an annuity*
19 *under section 814(a) that a surviving spouse has under this*
20 *subsection if and to the extent expressly provided in a court*
21 *order under section 820(b)(2).*

22 (g) Notwithstanding subsection (b), if the participant or
23 former participant had a former spouse qualifying for an an-
24 nuity under section ~~814(b)~~ 814(a), the annuity of the spouse

1 under this section shall be subject to the limitation of section
2 806(b)(3)(B).

3 (h) Annuities that become payable under this section
4 shall commence, terminate, and be resumed in accordance
5 with subsection (b)(4), (e), or (h) of section 806, as
6 appropriate.

7 SEC. 810. DISCONTINUED SERVICE RETIREMENT.—

8 Any participant who voluntarily separates from the Service
9 after obtaining at least 5 years of service credit toward re-
10 tirement under the System (excluding military and naval
11 service) may upon separation from the Service or at any time
12 prior to becoming eligible for an annuity elect to have his or
13 her contributions to the Fund returned in accordance with
14 section 815, or to leave his or her contributions in the Fund
15 and receive an annuity, computed under section 806, com-
16 mencing at age 60.

17 SEC. 811. VOLUNTARY RETIREMENT.—Any partici-
18 pant who is at least 50 years of age and has 20 years of
19 creditable service, including at least 5 years of service credit
20 toward retirement under the System (excluding military and
21 naval service), may on his or her own application and with
22 the consent of the Secretary be retired from the Service and
23 receive retirement benefits in accordance with section 806.

24 SEC. 812. MANDATORY RETIREMENT.—(a) Except as
25 provided in subsection (b), any participant shall be retired

1 from the Service at the end of the month in which the partici-
2 pant reaches age ~~60~~ 65 if the participant has at least 5 years
3 of service credit toward retirement under the System (exclud-
4 ing military and naval service) and shall receive retirement
5 benefits in accordance with section 806.

6 (b) Any participant who reaches age ~~60~~ 65 while occu-
7 pying a position to which he or she was appointed by the
8 President, by and with the advice and consent of the Senate,
9 may continue to serve until that appointment is terminated.
10 In addition, whenever the Secretary determines it to be in
11 the public interest, any participant who has reached age ~~60~~
12 65 may be retained on active service for a period not to
13 exceed 5 years. Any participant who completes a period of
14 service after reaching age ~~60~~ 65 as authorized by this subsec-
15 tion shall be retired at the end of the month in which such
16 authorized service is completed.

17 SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL
18 APPOINTEES.—If a participant completes an assignment
19 under section 302(b) in a position to which he or she was
20 appointed by the President and has not been reassigned
21 within 3 months after the termination of such assignment
22 (plus any period of authorized leave), the participant shall be
23 retired from the Service and receive retirement benefits in
24 accordance with section 806.

1 SEC. 814. FORMER SPOUSES.—(a)(1) Unless otherwise
2 expressly provided by any court order under section
3 820(b)(1), a former spouse of a participant or former partici-
4 pant is entitled to an annuity—

5 (A) if married to the participant throughout the
6 creditable service of the participant, equal to 50 per-
7 cent of the annuity of the participant; or

8 (B) if not married to the participant through such
9 creditable service, equal to that former spouse's pro
10 rata share of 50 percent of such annuity.

11 (2) A former spouse shall not be qualified for an annuity
12 under this subsection if before the commencement of that an-
13 nuity the former spouse remarries before becoming 60 years
14 of age.

15 (3) The annuity of a former spouse under this subsection
16 commences on the later of the day the participant upon
17 whose service the annuity is based becomes entitled to an
18 annuity under this title or the first day of the month in which
19 the divorce or annulment involved becomes final. The annu-
20 ity of such former spouse and the right thereto terminate
21 on—

22 (A) the last day of the month before the former
23 spouse dies or remarries before 60 years of age; or

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1 (B) the date the annuity of the participant termi-
2 nates (except in the case of an annuity subject to para-
3 graph (5)(B)).

4 (4) No court order under section 820(b)(1) involving any
5 participant may provide for an annuity or any combination of
6 annuities under this subsection which exceeds the annuity of
7 the participant, nor may any such order relating to an annu-
8 ity under this subsection be given effect if it is issued more
9 than 12 months after the date the divorce or annulment in-
10 volved becomes final.

11 (5)(A) The annuity payable to any participant or former
12 participant shall be reduced by the amount of an annuity
13 under this subsection of any former spouse based upon the
14 service of that participant. Such reduction shall be disre-
15 garded in calculating the survivor annuity for any spouse,
16 former spouse, or other survivor under this chapter, and in
17 calculating any reduction in the annuity of the participant to
18 provide survivor benefits under subsection (b) or section
19 806(b)(3).

20 (B) If any annuitant whose annuity is reduced under
21 subparagraph (A) is recalled to service under section 308, or
22 reinstated or reappointed in the Service in the case of a re-
23 covered disability annuitant or if any annuitant is reemployed
24 as provided for under section 824, the salary of that annu-
25 itant shall be reduced by the same amount as the annuity

1 would have been reduced if it had continued. Amounts equal
2 to the reductions under this subparagraph shall be deposited
3 in the Treasury of the United States to the credit of the
4 Fund.

5 (6) Notwithstanding paragraph (3), in the case of any
6 former spouse of a disability annuitant—

7 (A) the annuity of that former spouse shall com-
8 mence on the later of the date the participant would
9 qualify on the basis of his or her creditable service for
10 an annuity under this chapter (other than a disability
11 annuity) or the date the disability annuity begins; and

12 (B) the amount of the annuity of the former
13 spouse shall be calculated on the basis of the annuity
14 for which the participant would otherwise so qualify.

15 (7) An annuity under this subsection shall be treated the
16 same as a survivor annuity under subsection (b) for purposes
17 of section 806(h) or any comparable provision of law.

18 (b)(1) Subject to any election under section 806(b)(1)(C)
19 and unless otherwise expressly provided by any court order
20 under section 820(b)(1), if a former participant who is entitled
21 to receive an annuity is survived by a former spouse, the
22 former spouse shall be entitled to a survivor annuity—

23 (A) if married to the participant throughout the
24 creditable service of the participant, equal to 55 per-

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1 cent of the full amount of the participant's annuity, as
2 computed under section 806(a); or

3 (B) if not married to the participant throughout
4 such creditable service, equal to that former spouse's
5 pro rata share of 55 percent of the full amount of such
6 annuity.

7 (2) A former spouse shall not be qualified for an annuity
8 under this subsection if before the commencement of that an-
9 nuity the former spouse remarries before becoming 60 years
10 of age.

11 (3) An annuity payable from the Fund to a surviving
12 former spouse under this subsection shall commence on the
13 day the annuitant dies and shall terminate on the last day of
14 the month before the former spouse's death or remarriage
15 before attaining age 60. If such a survivor annuity is termi-
16 nated because of remarriage, it shall be restored at the same
17 rate commencing on the date such remarriage is terminated if
18 any lump sum paid upon termination of the annuity is re-
19 turned to the Fund.

20 (4)(A) The maximum survivor annuity or combination of
21 survivor annuities under this section (and section 806(b)(3))
22 with respect to any participant or former participant may not
23 exceed 55 percent of the full amount of the participant's an-
24 nuity, as calculated under section 806(a).

1 (B) Once a survivor annuity has been provided for under
2 this subsection for any former spouse, a survivor annuity may
3 thereafter be provided for under this subsection (or section
4 806(b)(3)) with respect to a participant or former participant
5 only for that portion (if any) of the maximum available which
6 is not committed for survivor benefits for any former spouse
7 whose prospective right to such annuity has not terminated
8 by reason of death or remarriage.

9 (C) After the death of a participant or former partici-
10 pant, a court order under section 820(b)(1) may not adjust
11 the amount of the annuity of any former spouse under this
12 section.

13 (5) For each full month after a former spouse of a par-
14 ticipant dies or remarries before attaining age 60, the annuity
15 of the participant, if reduced to provide a survivor annuity for
16 that former spouse, shall be recomputed and paid as if the
17 annuity had not been so reduced unless the participant is
18 then married and elects in writing within one year after the
19 death or remarriage of the former spouse to continue the re-
20 duction in order to provide a higher survivor annuity under
21 section 806(b)(3) for any spouse of the participant.

22 (c)(1) In the case of any participant or former partici-
23 pant providing a survivor annuity benefit under subsection (b)
24 for a former spouse—

25 (A) such participant may elect, or

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1 (B) a court order under section 820(b)(1) may pro-
2 vide for,
3 an additional survivor annuity under this subsection for any
4 other former spouse or spouse surviving the participant, if the
5 participant satisfactorily passes a physical examination as
6 prescribed by the Secretary of State.

7 (2) Neither the total amount of survivor annuity or an-
8 nuities elected or ordered under this subsection with respect
9 to any participant or former participant, nor the survivor an-
10 nuity or annuities for any one surviving spouse or former
11 spouse of such participant under this section and section
12 806(b)(3), shall exceed 55 percent of the full amount of the
13 participant's annuity, as computed under section 806(a).

14 (3)(A) In accordance with regulations which the Secre-
15 tary of State shall prescribe, the participant involved shall
16 provide for any annuity under this subsection—

17 (i) by a reduction in the annuity or salary of the
18 participant,

19 (ii) by a lump sum payment or installment pay-
20 ments to the Fund, or

21 (iii) by any combination of such reduction and
22 payments.

23 (B) The present value of the total amount to accrue to
24 the Fund under subparagraph (A) to provide any annuity
25 under this subsection shall be actuarially equivalent in value

1 to such annuity, as calculated upon such tables of mortality
2 as may from time to time be prescribed for this purpose by
3 the Secretary of State.

4 (C) If a former spouse predeceases the participant or
5 remarries before attaining age 60 (or, in the case of a spouse,
6 the spouse does not qualify as a former spouse upon dissolu-
7 tion of the marriage)—

8 (i) if an annuity or salary reduction under subpar-
9 agraph (A) is in effect for that spouse or former
10 spouse, the annuity or salary shall be recomputed and
11 paid as if it had not been reduced, and

12 (ii) any amount accruing to the Fund under sub-
13 paragraph (A) shall be refunded, but only to the extent
14 that such amount may have exceeded the actuarial cost
15 of providing benefits under this subsection for the
16 period such benefits were provided, as determined
17 under regulations prescribed by the Secretary of State.

18 (4) An annuity payable under this subsection to a spouse
19 or former spouse shall commence on the day after the partici-
20 pant dies and shall terminate on the last day of the month
21 before the former spouse's death or remarriage before attain-
22 ing age 60.

23 (5) Section 826 shall not apply to any annuity under this
24 subsection, unless authorized under regulations prescribed by
25 the Secretary of State.

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1 (d) Section 806(f) shall not apply—

2 (1) to any annuity payable under subsection (a) or
3 (b) to any former spouse if the amount of that annuity
4 varies by reason of a court order under section
5 820(b)(1) from the amount which would be calculated
6 under subsection (a)(1) or (b)(1), as the case may be, in
7 the absence of such court order; and

8 (2) to any annuity payable under subsection (c).

9 *SEC. 814. FORMER SPOUSES.—(a)(1) If a court order*
10 *under section 820(b)(2) expressly so provides, in the case of*
11 *any participant who is entitled to receive an annuity and*
12 *who is survived by a former spouse, the former spouse shall*
13 *be entitled to a survivor annuity in an amount which shall be*
14 *determined by or in accordance with the provisions of that*
15 *court order if the court order is consistent with the provisions*
16 *of this chapter.*

17 (2) *A former spouse shall not be qualified for an annu-*
18 *ity under this subsection if before the commencement of that*
19 *annuity the former spouse remarries before becoming 60*
20 *years of age.*

21 (3) *An annuity payable from the Fund to a surviving*
22 *former spouse under this subsection shall commence on the*
23 *day the annuitant dies and shall terminate on the last day of*
24 *the month before the former spouse's death or remarriage*
25 *before attaining age 60. If such a survivor annuity is termi-*

1 nated because of remarriage, it shall be restored at the same
2 rate commencing on the date such remarriage is terminated if
3 any lump sum paid upon termination of the annuity is re-
4 turned to the Fund.

5 (4)(A) The maximum survivor annuity or annuities for
6 any spouse or former spouse, or combination of such survivor
7 annuities, under this subsection (and section 806) with re-
8 spect to any participant or former participant may not exceed
9 55 percent of the full amount of the participant's annuity, as
10 calculated under section 806.

11 (B) Once a survivor annuity has been provided for
12 under this subsection (or section 806) for any spouse or
13 former spouse of a participant or former participant, a survi-
14 vor annuity may thereafter be provided for a spouse or former
15 spouse of that participant under this subsection (or section
16 806) only for that portion (if any) of the maximum available
17 which is not committed for survivor benefits for any spouse
18 or former spouse whose prospective right to such annuity has
19 not terminated.

20 (C) After the death of a participant or former partici-
21 pant, a court order under section 820(b)(2) may not adjust
22 the amount of the annuity of any former spouse under this
23 subsection.

24 (5)(A) For each full month after a former spouse of a
25 participant dies or remarries before attaining age 60, the an-

1 *nuity of the participant, if reduced to provide a survivor an-*
2 *nuity for that former spouse, shall be recomputed and paid as*
3 *if the annuity had not been so reduced unless an election is*
4 *in effect under subparagraph (B).*

5 *(B) Subject to paragraph (4)(B), the participant may*
6 *elect in writing within one year after the death or remarriage*
7 *of the former spouse to continue the reduction in order to*
8 *provide a higher survivor annuity under section 806(b)(3)*
9 *for any spouse of the participant.*

10 *(b)(1) In the case of any participant or former partici-*
11 *pant providing a survivor annuity benefit under subsection*
12 *(a) for a former spouse pursuant to a court order under sec-*
13 *tion 820(b)(2), such participant may elect an additional sur-*
14 *vivor annuity under this subsection for any other former*
15 *spouse or spouse surviving the participant, if the participant*
16 *satisfactorily passes a physical examination as prescribed by*
17 *the Secretary of State.*

18 *(2) Neither the total amount of survivor annuity or an-*
19 *nuities elected under this subsection with respect to any par-*
20 *ticipant or former participant, nor the survivor annuity or*
21 *annuities for any one surviving spouse or former spouse of*
22 *such participant under this section and section 806(b)(3),*
23 *shall exceed 55 percent of the full amount of the participant's*
24 *annuity, as computed under section 806(a).*

1 (3)(A) *In accordance with regulations which the Secre-*
2 *tary of State shall prescribe, the participant involved shall*
3 *provide for any annuity under this subsection—*

4 (i) *by a reduction in the annuity or salary of the*
5 *participant,*

6 (ii) *by a lump sum payment or installment pay-*
7 *ments to the Fund, or*

8 (iii) *by any combination of such reduction and*
9 *payments.*

10 (B) *The present value of the total amount to accrue to*
11 *the Fund under subparagraph (A) to provide any annuity*
12 *under this subsection shall be actuarially equivalent in value*
13 *to such annuity, as calculated upon such tables of mortality*
14 *as may from time to time be prescribed for this purpose by*
15 *the Secretary of State.*

16 (C) *If a former spouse predeceases the participant or*
17 *remarries before attaining age 60 (or, in the case of a spouse,*
18 *the spouse does not qualify as a former spouse upon dissolu-*
19 *tion of the marriage)—*

20 (i) *if an annuity or salary reduction under sub-*
21 *paragraph (A) is in effect for that spouse or former*
22 *spouse, the annuity or salary shall be recomputed and*
23 *paid as if it had not been reduced, and*

24 (ii) *any amount accruing to the Fund under sub-*
25 *paragraph (A) shall be refunded, but only to the extent*

1 *that such amount may have exceeded the actuarial cost*
2 *of providing benefits under this subsection for the*
3 *period such benefits were provided, as determined*
4 *under regulations prescribed by the Secretary of State.*

5 *(4) An annuity payable under this subsection to a*
6 *spouse or former spouse shall commence on the day after the*
7 *participant dies and shall terminate on the last day of the*
8 *month before the former spouse's death or remarriage before*
9 *attaining age 60.*

10 *(5) Section 826 shall not apply to any annuity under*
11 *this subsection, unless authorized under regulations pre-*
12 *scribed by the Secretary of State, and any annuity under*
13 *this subsection shall not be considered as a survivor annuity*
14 *for purposes of the provisions of section 806(h) requiring an*
15 *election of certain survivor benefits.*

16 *(c) Section 806(l) shall not apply to any annuity pay-*
17 *able under subsection (a) or (b).*

18 SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a
19 participant becomes separated from the Service without be-
20 coming eligible for an annuity or a deferred annuity under
21 this chapter, a lump-sum credit shall be paid to the partici-
22 pant ~~(and to any former spouse of the participant, in accord-~~
23 ~~ance with subsection (i)).~~

24 (b) Whenever an annuitant becomes separated from the
25 Service following a period of recall service without becoming

1 eligible for a supplemental or recomputed annuity under sec-
2 tion 823, the compulsory contributions of the annuitant to the
3 Fund for such service, together with any special contribu-
4 tions the annuitant may have made for other service per-
5 formed after the date of separation from the Service which
6 forms the basis for annuity, shall be returned to the annuitant
7 ~~(and any former spouse of the annuitant who was married to~~
8 ~~the participant during the period of recall service, in accord-~~
9 ~~ance with subsection (i)).~~

10 (c) If all annuity rights under this chapter based on the
11 service of a deceased participant or annuitant terminate
12 before the total annuity paid equals the lump-sum credit, the
13 difference shall be paid in accordance with subsection (f).

14 (d) If a participant or former participant dies and is not
15 survived by an individual eligible for an annuity under this
16 chapter or by such an individual or individuals all of whose
17 annuity rights terminate before a claim for survivor annuity
18 is filed, the lump-sum credit shall be paid in accordance with
19 subsection (f).

20 (e) If an annuitant who was a former participant dies,
21 any annuity accrued and unpaid shall be paid in accordance
22 with subsection (f).

23 (f) Payments under subsections (c) through (e) shall be
24 paid in the following order of precedence to individuals sur-
25 viving the participant and alive on the date entitlement to the

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1 payment arises, upon the establishment of a valid claim
2 therefor, and such payment shall be a bar to recovery by any
3 other person:

4 (1) To the beneficiary or beneficiaries last desig-
5 nated by the participant before or after retirement in a
6 signed and witnessed writing filed with the Secretary
7 of State prior to the death of the participant, for which
8 purpose a designation, change, or cancellation of bene-
9 ficiary in a will or other document which is not so ex-
10 ecuted and filed shall have no force or effect.

11 (2) If there is no such beneficiary, to the surviving
12 wife or husband of the participant.

13 (3) If none of the above, to the child (without
14 regard to the definition in section 804(2)) or children of
15 the participant (including adopted and natural children
16 but not stepchildren) and descendants of deceased chil-
17 dren by representation.

18 (4) If none of the above, to the parents of the par-
19 ticipant or the survivor of them.

20 (5) If none of the above, to the duly appointed ex-
21 ecutor or administrator of the estate of the participant.

22 (6) If none of the above, to such other next of kin
23 of the participant as may be determined in the judg-
24 ment of the Secretary of State to be legally entitled to
25 such payment, except that no payment shall be made

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1 under this paragraph until after the expiration of 30
2 days after the death of the participant or annuitant.

3 (g) Annuity accrued and unpaid on the death of a survi-
4 vor annuitant shall be paid in the following order of prece-
5 dence, and the payment bars recovery by any other person:

6 (1) To the duly appointed executor or administra-
7 tor of the estate of the survivor annuitant.

8 (2) If there is no such executor or administrator,
9 to such person as may be determined by the Secretary
10 of State (after the expiration of 30 days from the date
11 of death of the survivor annuitant) to be entitled under
12 the laws of the domicile of the survivor annuitant at
13 the time of death.

14 (h) Amounts deducted and withheld from basic salary of
15 a participant under section 805 from the beginning of the first
16 pay period after the participant has completed 35 years of
17 service computed under section 816 (excluding service credit
18 for unused sick leave under section 816(b)), together with
19 interest on the amounts at the rate of 3 percent a year com-
20 pounded annually from the date of the deduction to the date
21 of retirement or death, shall be applied toward any special
22 contribution due under section 805(d), and any balance not so
23 required shall be refunded in a lump sum to the participant
24 after separation or, in the event of a death in service, to a

1 beneficiary in the order of precedence specified in subsection
2 (f).

3 (i) Unless otherwise expressly provided by any court
4 order under section 820(b)(1), the amount of a participant's
5 or former participant's lump-sum credit payable to a former
6 spouse of that participant shall be—

7 (1) if the former spouse was married to the par-
8 ticipant throughout the period of creditable service of
9 the participant, 50 percent of the lump-sum credit to
10 which such participant would be entitled in the absence
11 of this subsection; or

12 (2) if such former spouse was not married to the
13 participant throughout such creditable service, an
14 amount equal to such former spouse's pro rata share of
15 50 percent of such lump-sum credit.

16 The lump-sum credit of the participant shall be reduced by
17 the amount of the lump-sum credit payable to the former
18 spouse.

19 SEC. 816. CREDITABLE SERVICE.—(a) Except as oth-
20 erwise specified by law, all periods of civilian and military
21 and naval service, and all other periods through the date of
22 final separation of a participant from the Service that the
23 Secretary of State determines would be creditable toward re-
24 tirement under the Civil Service Retirement and Disability
25 System (as determined in accordance with section 8332 of

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1 title 5, United States Code), shall be creditable for purposes
2 of this chapter. Conversely, any such service performed after
3 December 31, 1976, that would not be creditable under spec-
4 ified conditions under section 8332 of title 5, United States
5 Code, shall be excluded under this chapter under the same
6 conditions.

7 (b) In computing any annuity under this chapter, the
8 total service of a participant who retires on an immediate
9 annuity or who dies leaving a survivor or survivors entitled
10 to annuity includes (without regard to the 35-year limitation
11 imposed by section 806(a)) the days of unused sick leave to
12 the credit of the participant, except that these days shall not
13 be counted in determining average basic salary or annuity
14 eligibility under this chapter. A contribution to the Fund shall
15 not be required from a participant for this service credit.

16 (c)(1) A participant who enters on approved leave with-
17 out pay to serve as a full-time officer or employee of an orga-
18 nization composed primarily of Government employees may,
19 within 60 days after entering on that leave without pay, file
20 with the employing agency an election to receive full retire-
21 ment credit for such periods of leave without pay and arrange
22 to pay concurrently into the Fund through the employing
23 agency, amounts equal to the retirement deductions and
24 agency contributions on the Foreign Service salary rate that
25 would be applicable if the participant were in a pay status. If

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1 the election and all payments provided by this subsection are
2 not made for the periods of such leave without pay occurring
3 after November 7, 1976, the participant may not receive any
4 credit for such periods of leave without pay occurring after
5 such date.

6 (2) A participant may make a special contribution for
7 any period or periods of approved leave without pay while
8 serving before November 7, 1976, as a full-time officer or
9 employee of an organization composed primarily of Govern-
10 ment employees. Any such contribution shall be based upon
11 the suspended Foreign Service salary rate and shall be com-
12 puted in accordance with section 805. A participant who
13 makes such contributions shall be allowed full retirement
14 credit for the period or periods of leave without pay. If this
15 contribution is not made, up to 6 months' retirement credit
16 shall be allowed for such periods of leave without pay each
17 calendar year.

18 (d) A participant who has received a refund of retire-
19 ment contributions (which has not been repaid) under this or
20 any other retirement system for Government employees cov-
21 ering service which may be creditable may make a special
22 contribution for such service under section 805. Credit may
23 not be allowed for service covered by the refund unless the
24 special contribution is made.

1 (e) No credit in annuity computation shall be allowed for
2 any period of civilian service for which a participant made
3 retirement contributions to another retirement system for
4 Government employees unless—

5 (1) the right to any annuity under the other
6 system which is based on such service is waived, and

7 (2) a special contribution is made under section
8 805 covering such service.

9 (f) A participant who during a period of war, or national
10 emergency proclaimed by the President or declared by the
11 Congress, leaves the Service to enter the military service is
12 deemed, for the purpose of this chapter, as not separated
13 from the Service unless the participant applies for and re-
14 ceives a lump-sum payment under section 815. However, the
15 participant is deemed to be separated from the Service after
16 the expiration of 5 years of such military service.

17 (g)(1) An annuity or survivor annuity based on the serv-
18 ice of a participant of Japanese ancestry who would be eligi-
19 ble under section 8332(l) of title 5, United States Code, for
20 credit for civilian service for periods of internment during
21 World War II shall, upon application to the Secretary of
22 State, be recomputed to give credit for that service. Any such
23 recomputation of an annuity shall apply with respect to
24 months beginning more than 30 days after the date on which

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1 application for such recomputation is received by the Secre-
2 tary of State.

3 (2) The Secretary of State shall take such action as may
4 be necessary and appropriate to inform individuals entitled to
5 have any service credited or annuity recomputed under
6 this subsection of their entitlement to such credit or
7 recomputation.

8 (3) The Secretary of State shall, on request, assist any
9 individual referred to in paragraph (1) in obtaining from any
10 agency or other Government establishment information nec-
11 essary to verify the entitlement of the individual to have any
12 service credited or any annuity recomputed under this sub-
13 section.

14 (4) Any agency or other Government establishment
15 shall, upon request, furnish to the Secretary of State any
16 information it possesses with respect to the internment or
17 other detention, as described in section 8332(l) of title 5,
18 United States Code, of any participant.

19 (h) A participant who, while on approved leave without
20 pay, serves as a full-time paid employee of a Member or
21 office of the Congress shall continue to make contributions to
22 the Fund based upon the Foreign Service salary rate that
23 would be in effect if the participant were in a pay status. The
24 participant's employing office in the Congress shall make a
25 matching contribution (from the appropriation or fund which

1 is used for payment of the salary of the participant) to the
2 Treasury of the United States to the credit of the Fund. All
3 periods of service for which full contributions to the Fund are
4 made under this subsection shall be counted as creditable
5 service for purposes of this chapter and shall not, unless all
6 retirement credit is transferred, be counted as creditable
7 service under any other Government retirement system.

8 (i)(1) Service of a participant shall be considered credit-
9 able service for purposes of applying provisions of this chap-
10 ter relating to former spouses if such service would be
11 creditable—

12 (A) under subsection (e)(1) or (2) but for the fact
13 an election was not made under subsection (e)(1) or a
14 special contribution was not made under subsection
15 (e)(2), and

16 (B) under subsection (d) but for the fact that a
17 refund of contributions has not been repaid unless the
18 former spouse received under this chapter a portion of
19 the lump sum (or a court order provided otherwise).

20 (2) A former spouse shall not be considered as married
21 to a participant—

22 (A) for periods assumed to be creditable service
23 under section 808(a) or section 809(e), or

24 (B) for any extra period of creditable service pro-
25 vided under section 817 for service of a participant at

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1 ~~an unhealthful post unless the former spouse resided~~
2 ~~with the participant at that post during that period.~~

3 SEC. 817. EXTRA CREDIT FOR SERVICE AT UN-
4 HEALTHFUL POSTS.—The Secretary of State may from time
5 to time establish a list of places which by reason of climatic
6 or other extreme conditions are to be classed as unhealthful
7 posts. Each year of duty at such posts, inclusive of regular
8 leaves of absence, shall be counted as one and a half years in
9 computing the length of the service of a participant for the
10 purpose of retirement, fractional months being considered as
11 full months in computing such service. No such extra credit
12 for service at such unhealthful posts shall be credited to any
13 participant who is paid a differential under section 5925 or
14 5928 of title 5, United States Code, for such service.

15 SEC. 818. ESTIMATE OF APPROPRIATIONS
16 NEEDED.—The Secretary of the Treasury shall prepare the
17 estimates of the annual appropriations required to be made to
18 the Fund, and shall make actuarial valuations of the System
19 at intervals of not more than five years. The Secretary of
20 State may expend from money to the credit of the Fund an
21 amount not exceeding \$5,000 per year for the incidental ex-
22 penses necessary in administering the provisions of this chap-
23 ter, including actuarial advice.

24 SEC. 819. INVESTMENT OF THE FUND.—The Secre-
25 tary of the Treasury shall invest from time to time in inter-

1 est-bearing securities of the United States such portions of
2 the Fund as in the judgment of the Secretary of the Treasury
3 may not be immediately required for the payment of annu-
4 ities, cash benefits, refunds, and allowances. The income de-
5 rived from such investments shall constitute a part of the
6 Fund.

7 SEC. 820. ASSIGNMENT AND ATTACHMENT OF
8 MONEYS.—(a)(1) An individual entitled to an annuity from
9 the Fund may make allotments or assignments of amounts
10 from such annuity for such purposes as the Secretary of State
11 in his or her sole discretion considers appropriate.

12 (2) Notwithstanding section 3477 of the Revised Stat-
13 utes of the United States (31 U.S.C. 203) or any other law, a
14 member of the Service who is entitled to receive benefits
15 under section 609(b)(1) may assign to any person the whole
16 or any part of those benefits. Any such assignment shall be
17 on a form approved by the Secretary of the Treasury and a
18 copy of such assignment form shall be deposited with the
19 Secretary of the Treasury by the member executing the
20 assignment.

21 ~~(b)(1)(A) In the case of any participant or annuitant who~~
22 ~~has a former spouse with respect to whom there is a court~~
23 ~~order—~~

24 ~~(i) any right of any former spouse to any annuity~~
25 ~~under section 814(a) in connection with any retirement~~

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1 or disability annuity of the participant, and the amount
2 of any annuity under such section 814(a);

3 (ii) any right of a former spouse to a survivor an-
4 nuity under section 814(b) or (c), and the amount of
5 any such annuity under section 814(b) or (c) for any
6 surviving former spouse of the participant or annuitant;
7 and

8 (iii) any right of any former spouse to any pay-
9 ment of a lump-sum credit under section 815(a) or (b);
10 shall be determined in accordance with a court order, if and
11 to the extent expressly provided for in the terms of that court
12 order.

13 (B) This paragraph shall not apply in the case of any
14 court order which is inconsistent with the requirements of
15 this chapter, as determined by the Secretary of State.

16 (2) Except with respect to obligations between partici-
17 pants and former spouses, payments under this chapter which
18 would otherwise be made to a participant or annuitant based
19 upon his or her service shall be paid (in whole or in part) by
20 the Secretary of State to another individual to the extent
21 expressly provided for in the terms of any order or any court
22 decree of legal separation, or the terms of any court order or
23 court-approved property settlement agreement incident to
24 any court decree of legal separation.

1 **(b)(1)** *Payments under this chapter which would other-*
2 *wise be made to a participant or annuitant based upon his or*
3 *her service shall be paid (in whole or in part) by the Secre-*
4 *tary to another person to the extent expressly provided for in*
5 *the terms of any court decree of divorce, annulment, or legal*
6 *separation, or the terms of any court order or court-approved*
7 *property settlement agreement incident to any court decree of*
8 *legal separation.*

9 **(2)** *Any former spouse of a participant or former par-*
10 *ticipant shall be entitled to a survivor annuity under section*
11 *814(a) of this chapter if and to the extent expressly so pro-*
12 *vided for in the terms of a court decree of divorce or annul-*
13 *ment, or the terms of any court order incident to such decree.*

14 **(3)** *This subsection shall not apply in the case of any*
15 *court decree or order which is inconsistent with the require-*
16 *ments of this chapter, as determined by the Secretary of*
17 *State.*

18 ~~**(3)**~~ **(4)** *Paragraphs (1) and (2) shall apply only to pay-*
19 *ments made under this chapter for periods beginning after the*
20 *date of receipt by the Secretary of State of written notice of*
21 *such decree, order, or agreement, and such additional infor-*
22 *mation and such documentation as the Secretary of State*
23 *may require.*

24 ~~**(4)**~~ **(5)** *Any payment under this subsection to an individ-*
25 *ual bars recovery by any other individual.*

1 ~~(5) The 10-year requirement of section 804(b)(6), or any~~
2 ~~other provision of this chapter, shall not be construed to~~
3 ~~affect the rights any spouse or individual formerly married to~~
4 ~~a participant or annuitant may have, under any law or rule of~~
5 ~~law of any State or the District of Columbia, with respect to~~
6 ~~an annuity of a participant or annuitant under this chapter.~~

7 (c) None of the moneys mentioned in this chapter shall
8 be assignable either in law or equity, except under subsection
9 (a) or (b) of this section, or subject to execution, levy, attach-
10 ment, garnishment, or other legal process, except as other-
11 wise may be provided by Federal law.

12 SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a)
13 Any statute which authorizes—

14 (1) new or liberalized benefits payable from the
15 Fund, including annuity increases other than under
16 section 825;

17 (2) extension of the benefits of the System to new
18 groups of employees; or

19 (3) increases in salary on which benefits are
20 computed;

21 is deemed to authorize appropriations to the Fund to finance
22 the unfunded liability created by that statute, in 30 equal
23 annual installments with interest computed at the rate used
24 in the then most recent valuation of the System and with the
25 first payment thereof due as of the end of the fiscal year in

1 which each new or liberalized benefit, extension of benefits,
2 or increase in salary is effective.

3 (b) There is authorized to be appropriated to the Fund
4 for each fiscal year an amount equal to the amount of the
5 Foreign Service normal cost for that year which is not met
6 by contributions to the Fund under section 805(a).

7 SEC. 822. UNFUNDED LIABILITY OBLIGATIONS.—(a)
8 At the end of each fiscal year, the Secretary of State shall
9 notify the Secretary of the Treasury of the amount equivalent
10 to—

11 (1) interest on the unfunded liability computed for
12 that year at the interest rate used in the then most
13 recent valuation of the System, and

14 (2) that portion of disbursement for annuities for
15 that year which the Secretary of State estimates is
16 attributable to credit allowed for military and naval
17 service.

18 (b) Before closing the accounts for each fiscal year, the
19 Secretary of the Treasury shall credit such amounts to the
20 Fund, as a Government contribution, out of any money in the
21 Treasury of the United States not otherwise appropriated.

22 (c) Requests for appropriations to the Fund under sec-
23 tion 821(b) shall include reports to the Congress on the sums
24 credited to the Fund under this section.

1 SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERV-
2 ICE.—(a) Any annuitant recalled to duty in the Service under
3 section 308(a) shall, while so serving, be entitled in lieu of
4 annuity to the full salary of the class in which serving.
5 During such service the recalled annuitant shall make contri-
6 butions to the Fund in accordance with section 805. On the
7 day following termination of the recall service, the former
8 annuity shall be resumed, adjusted by any cost-of-living in-
9 creases under section 825 that became effective during the
10 recall period.

11 (b) If the recall service lasts less than one year, the
12 contributions of the annuitant to the Fund during recall serv-
13 ice shall be refunded in accordance with section 815. If the
14 recall service lasts more than one year, the annuitant may, in
15 lieu of such refund, elect a supplemental annuity computed
16 under section 806 on the basis of service credit and average
17 salary earned during the recall period irrespective of the
18 number of years of service credit previously earned. If the
19 recall service continues for at least 5 years, the annuitant
20 may elect to have his or her annuity determined anew under
21 section 806 in lieu of any other benefits under this section.
22 Any annuitant who is recalled under section 308 may upon
23 written application count as recall service any prior service
24 that is creditable under section 816 that was performed after
25 the separation upon which his or her annuity is based.

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1 SEC. 824. REEMPLOYMENT.—(a) Notwithstanding any
2 other law, any member of the Service who has retired and is
3 receiving an annuity under this chapter, and who is reem-
4 ployed in the Government service in any part-time or full-
5 time appointive position, shall be entitled to receive the
6 salary of the position in which he or she is serving plus so
7 much of the annuity payable under this chapter which when
8 combined with such salary does not exceed during any calen-
9 dar year the basic salary the member was entitled to receive
10 under this Act on the date of retirement from the Service.
11 Any such reemployed member of the Service who receives
12 salary during any calendar year in excess of the maximum
13 amount which he or she may be entitled to receive under this
14 subsection shall be entitled to such salary in lieu of benefits
15 under this chapter.

16 (b) When any such retired member of the Service is
17 reemployed, the employer shall send a notice of such reem-
18 ployment to the Secretary of State, together with all perti-
19 nent information relating to such employment, and shall pay
20 directly to such member the salary of the position in which he
21 or she is serving.

22 (c) In the event of any overpayment under this section,
23 such overpayment shall be recovered by withholding the
24 amount involved from the salary payable to such reemployed

1 member of the Service or from any other moneys, including
2 annuity payments, payable under this chapter.

3 SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The vol-
4 untary contribution account shall be the sum of unrefunded
5 amounts voluntarily contributed prior to the effective date of
6 this Act by any participant or former participant under any
7 prior law authorizing such contributions to the Fund, plus
8 interest compounded at the rate of 3 percent per year to the
9 date of separation from the Service or (in case of participant
10 or former participant separated with entitlement to a deferred
11 annuity) to the date the voluntary contribution account is
12 claimed, the commencing date fixed for the deferred annuity,
13 or the date of death, whichever is earlier. Effective on the
14 date the participant becomes eligible for an annuity or a de-
15 ferred annuity and at the election of the participant, his or
16 her account shall be—

- 17 (1) returned in a lump sum;
- 18 (2) used to purchase an additional life annuity;
- 19 (3) used to purchase an additional life annuity for
20 the participant and to provide for a cash payment on
21 his or her death to a beneficiary whose name shall be
22 notified in writing to the Secretary of State by the par-
23 ticipant; or
- 24 (4) used to purchase an additional life annuity for
25 the participant and a life annuity commencing on his or

1 her death payable to a beneficiary whose name shall be
2 notified in writing to the Secretary of State by the par-
3 ticipant, with a guaranteed return to the beneficiary or
4 his or her legal representative of an amount equal to
5 the cash payment referred to in paragraph (3).

6 (b) The benefits provided by subsection (a) (2), (3), or (4)
7 shall be actuarially equivalent in value to the payment pro-
8 vided for by subsection (a)(1) and shall be calculated upon
9 such tables of mortality as may be from time to time pre-
10 scribed for this purpose by the Secretary of the Treasury.

11 (c) A voluntary contribution account shall be paid in a
12 lump sum following receipt of an application therefor from a
13 present or former participant if application is filed prior to
14 payment of any additional annuity. If not sooner paid, the
15 account shall be paid at such time as the participant sepa-
16 rates from the Service for any reason without entitlement to
17 an annuity or a deferred annuity or at such time as a former
18 participant dies or withdraws compulsory contributions to the
19 Fund. In case of death, the account shall be paid in the order
20 of precedence specified in section 815(f).

21 SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNU-
22 ITIES.—(a) A cost-of-living annuity increase shall become ef-
23 fective under this section on the effective date of each such
24 increase under section 8340(b) of title 5, United States Code.
25 Each such increase shall be applied to each annuity payable

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1 from the Fund which has a commencing date not later than
2 the effective date of the increase.

3 (b) Each annuity increase under this section shall be
4 identical to the corresponding percentage increase under sec-
5 tion 8340(b) of title 5, United States Code.

6 (c) Eligibility for an annuity increase under this section
7 shall be governed by the commencing date of each annuity
8 payable from the Fund as of the effective date of an increase
9 except as follows:

10 (1) An annuity (except a deferred annuity) payable
11 from the Fund to a participant who retires and re-
12 ceives an immediate annuity, or to a surviving spouse
13 or former spouse of a deceased participant who dies in
14 service or who dies after being separated with benefits
15 under section 609(b)(2), which has a commencing date
16 after the effective date of the then last preceding gen-
17 eral annuity increase under this section shall not be
18 less than the annuity which would have been payable if
19 the commencing date of such annuity had been the ef-
20 fective date of such last preceding increase. In the ad-
21 ministration of this paragraph, the number of days of
22 unused sick leave to the credit of a participant or de-
23 ceased participant on the effective date of the then last
24 preceding general annuity increase under this section
25 shall be deemed to be equal to the number of days of

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1 unused sick leave to his or her credit on the day of
2 separation from the Service.

3 (2) Effective from its commencing date, an annu-
4 ity payable from the Fund to the survivor of an annu-
5 itant, except a child entitled to an annuity under sec-
6 tion 806(c) or 809(c) or (d), shall be increased by the
7 total percentage increase the annuitant was receiving
8 under this section at death.

9 (3) For purposes of computing or recomputing an
10 annuity to a child under section 806(c) or (d) or 809(c)
11 or (d), the items \$900, \$1,080, \$2,700, and \$3,240 ap-
12 pearing in section 806(c) shall be increased by the total
13 percentage increases by which corresponding amounts
14 are being increased under section 8340 of title 5,
15 United States Code, on the date the annuity of the
16 child becomes effective.

17 (d) No increase in annuity provided by this section shall
18 be computed on any additional annuity purchased at retire-
19 ment by voluntary contributions.

20 (e) The monthly installment of annuity after adjustment
21 under this section shall be fixed at the nearest dollar, except
22 such installment shall after adjustment reflect an increase of
23 at least \$1.

24 (f) Effective from its commencing date, there shall be an
25 increase of 10 percent in the annuity of each surviving spouse

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1 whose entitlement to annuity resulted from the death of an
2 annuitant who, prior to October 1, 1976, elected a reduced
3 annuity in order to provide a spouse's survivor annuity.

4 SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE
5 AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In
6 order to maintain existing conformity between the Civil Serv-
7 ice Retirement and Disability System under subchapter III of
8 chapter 83 of title 5, United States Code, and the Foreign
9 Service Retirement and Disability System, whenever a law
10 of general applicability is enacted which—

11 (1) affects the treatment of current or former par-
12 ticipants, annuitants, or survivors under the Civil Serv-
13 ice Retirement and Disability System; and

14 (2) affects treatment which, immediately prior to
15 the enactment of such law, was substantially identical
16 to the treatment accorded to participants, former par-
17 ticipants, annuitants, or survivors under the Foreign
18 Service Retirement and Disability System;

19 such law shall be extended in accordance with subsection (b)
20 to the Foreign Service Retirement and Disability System so
21 that it applies in like manner with respect to participants,
22 former participants, annuitants, or survivors under that
23 System.

24 (b) The President shall by Executive order prescribe
25 regulations to implement this section and to make such ex-

1 tension retroactive to a date no earlier than the effective date
2 of the provision of law applicable to the Civil Service Retirement
3 and Disability System. Any provision of an Executive
4 order issued under this section shall modify, supersede, or
5 render inapplicable, as the case may be, to the extent inconsistent
6 therewith—

7 (1) all provisions of law enacted prior to the effective
8 date of that provision of the Executive order, and

9 (2) any prior provision of an Executive order
10 issued under this section.

11 CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

12 SEC. 901. TRAVEL AND RELATED EXPENSES.—The
13 Secretary may pay the travel and related expenses of members
14 of the Service and their families, including costs or expenses
15 incurred for—

16 (1) proceeding to and returning from assigned
17 posts of duty;

18 (2) authorized or required home leave;

19 (3) family members to accompany, precede, or
20 follow a member of the Service to a place of temporary
21 duty;

22 (4) representational travel within the country to
23 which the member of the Service is assigned or, when
24 not more than one family member participates, outside
25 such country;

1 (5) obtaining necessary medical care for an illness,
2 injury, or medical condition while abroad in a locality
3 where there is no suitable person or facility to provide
4 such care (without regard to those laws and regula-
5 tions limiting or restricting the furnishing or payment
6 of transportation and traveling expenses), as well as
7 expenses for—

8 (A) an attendant or attendants for a member
9 of the Service or a family member who is too ill
10 to travel unattended or for a family member who
11 is too young to travel alone, and

12 (B) a family member incapable of caring for
13 himself or herself if he or she remained at the
14 post at which the member of the Service is serv-
15 ing;

16 (6) rest and recuperation travel of members of the
17 Service who are United States citizens, and members
18 of their families, while serving at locations abroad spe-
19 cifically designated by the Secretary for purposes of
20 this paragraph, to—

21 (A) other locations abroad having different
22 social, climatic, or other environmental conditions
23 than those at the post at which the member of the
24 Service is serving, or

25 (B) locations in the United States;

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1 except that, unless the Secretary otherwise specifies in
2 extraordinary circumstances, travel expenses under this
3 paragraph shall be limited to the cost for a member of
4 the Service, and for each member of the family of the
5 member, of 1 round trip during any continuous 2-year
6 tour unbroken by home leave and of 2 round trips
7 during any continuous 3-year tour unbroken by home
8 leave;

9 (7) removal of the family members of a member of
10 the Service, and the furniture and household and per-
11 sonal effects (including automobiles) of the family, from
12 a Foreign Service post where there is imminent danger
13 because of the prevalence of disturbed conditions, and
14 the return of such individuals, furniture, and effects to
15 such post upon the cessation of such conditions, or to
16 such other Foreign Service post as may in the mean-
17 time have become the post to which the member of the
18 Service has been reassigned;

19 (8) trips by a member of the Service for purposes
20 of family visitation in situations where the family of the
21 member is prevented by official order from accompany-
22 ing the member to, or has been ordered from, the as-
23 signed post of the member because of imminent danger
24 due to the prevalence of disturbed conditions, except
25 that—

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1 (A) with respect to any such member whose
2 family is located in the United States, the Secre-
3 tary may pay the costs and expenses for not to
4 exceed two round trips in a 12-month period; and

5 (B) with respect to any such member whose
6 family is located abroad, the Secretary may pay
7 such costs and expenses for trips in a 12-month
8 period as do not exceed the cost of 2 round trips
9 (at less than first class) to the District of Colum-
10 bia;

11 (9) round-trip travel from a location abroad for
12 purposes of family visitation in emergency situations
13 involving personal hardship;

14 (10) preparing and transporting to the designated
15 home in the United States or to a place not more dis-
16 tant, the remains of a member of the Service, or of a
17 family member of a member of the Service, who dies
18 abroad or while in travel status;

19 (11) transporting the furniture and household and
20 personal effects of a member of the Service (and of his
21 or her family) to successive posts of duty and, on sepa-
22 ration of a member from the Service, to the place
23 where the member will reside (or if the member has
24 died, to the place where his or her family will reside);

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1 (12) packing and unpacking, transporting to and
2 from a place of storage, and storing the furniture and
3 household and personal effects of a member of the
4 Service (and of his or her family)—

5 (A) when the member is absent from his or
6 her post of assignment under orders or is assigned
7 to a Foreign Service post to which such furniture
8 and household and personal effects cannot be
9 taken or at which they cannot be used, or when it
10 is in the public interest or more economical to
11 authorize storage;

12 (B) in connection with an assignment of the
13 member to a new post, except that costs and
14 expenses may be paid under this subparagraph
15 only for the period beginning on the date of de-
16 parture from his or her last post or (in the case of
17 a new member) on the date of departure from the
18 place of residence of the member and ending on
19 the earlier of the date which is 3 months after ar-
20 rival of the member at the new post or the date
21 on which the member establishes residence quar-
22 ters; and

23 (C) in connection with separation of the
24 member from the Service, except that costs or
25 expenses may not be paid under this subpara-

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1 graph for storing furniture and household and per-
2 sonal effects for more than 3 months;

3 (13) transporting, for or on behalf of a member of
4 the Service, a privately owned motor vehicle in any
5 case in which the Secretary determines that water,
6 rail, or air transportation of the motor vehicle is neces-
7 sary or expedient for all or any part of the distance
8 between points of origin and destination, but transpor-
9 tation may be provided under this paragraph for only
10 one motor vehicle of a member during any 48-month
11 period while the member is continuously serving
12 abroad, except that another motor vehicle may be so
13 transported as a replacement for such motor vehicle if
14 such replacement—

15 (A) is determined, in advance, by the Secre-
16 tary to be necessary for reasons beyond the con-
17 trol of the member and in the interest of the Gov-
18 ernment, or

19 (B) is incident to a reassignment when the
20 cost of transporting the replacement motor vehicle
21 does not exceed the cost of transporting the motor
22 vehicle that is replaced;

23 (14) the travel and relocation of members of the
24 Service, and members of their families, assigned to or
25 within the United States, including assignments under

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1 subchapter VI of chapter 33 of title 5, United States
2 Code (notwithstanding section 3375(a) of such title, if
3 an agreement similar to that required by section
4 3375(b) of such title is executed by the member of the
5 Service); and

6 (15) 1 round-trip per year for each child below
7 age 21 of a member of the Service assigned abroad—

8 (A) to visit the member abroad if the child
9 does not regularly reside with the member and
10 the member is not receiving an education allow-
11 ance or educational travel allowance for the child
12 under section 5924(4) of title 5, United States
13 Code; or

14 (B) to visit the other parent of the child if
15 the other parent resides in a country other than
16 the country to which the member is assigned and
17 the child regularly resides with the member and
18 does not regularly attend school in the country in
19 which the other parent resides,

20 except that a payment under this paragraph may not
21 exceed the cost of round-trip travel between the post
22 to which the member is assigned and the port of entry
23 in the contiguous 48 States which is nearest to that
24 post.

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1 SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Sec-
2 retary may, as a means of eliminating transportation costs,
3 provide members of the Service with basic household furnish-
4 ing and equipment for use on a loan basis in personally
5 owned or leased residences.

6 SEC. 903. REQUIRED LEAVE IN THE UNITED
7 STATES.—(a) The Secretary may order a member of the
8 Service who is a citizen of the United States to take a leave
9 of absence under section 6305 of title 5, United States Code
10 (without regard to the introductory clause of subsection (a) of
11 that section), upon completion by that member of 18 months
12 of continuous service abroad. The Secretary shall order on
13 such a leave of absence a member of the Service who is a
14 citizen of the United States as soon as possible after comple-
15 tion by that member of 3 years of continuous service abroad.

16 (b) Leave ordered under this section may be taken in the
17 United States, its territories and possessions, or the Com-
18 monwealth of Puerto Rico.

19 (c) While on a leave of absence ordered under this sec-
20 tion, the services of any member of the Service shall be avail-
21 able for such work or duties in the Department or elsewhere
22 as the Secretary may prescribe, but the time of such work or
23 duties shall not be counted as leave.

24 SEC. 904. HEALTH CARE.—(a) The Secretary of State
25 may establish a health care program to promote and maintain

1 the physical and mental health of members of the Service,
2 and (when incident to service abroad) other designated eligi-
3 ble Government employees, and members of the families of
4 such members and employees.

5 (b) Any such health care program may include (1) medi-
6 cal examinations for applicants for employment, (2) medical
7 examinations and inoculations or vaccinations for members of
8 the Service and employees of the Department who are citi-
9 zens of the United States and for members of their families,
10 and (3) examinations necessary in order to establish disability
11 or incapacity of participants in the Foreign Service Retire-
12 ment and Disability System or to provide survivor benefits
13 under chapter 8.

14 (c) The Secretary of State may establish health care
15 facilities and provide for the services of physicians, nurses, or
16 other health care personnel at Foreign Service posts abroad
17 at which, in the opinion of the Secretary of State, a sufficient
18 number of Government employees are assigned to warrant
19 such facilities or services.

20 (d) If an individual eligible for health care under this
21 section incurs an illness, injury, or medical condition while
22 abroad which requires hospitalization or similar treatment,
23 the Secretary may pay all or part of the cost of such treat-
24 ment. Limitations on such payments established by regula-
25 tion may be waived whenever the Secretary determines that

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1 the illness, injury, or medical condition clearly was caused or
2 materially aggravated by the fact that the individual con-
3 cerned is or has been located abroad.

4 (e) Health care may be provided under this section to a
5 member of the Service or other designated eligible Govern-
6 ment employee after the separation of such member or
7 employee from Government service. Health care may be
8 provided under this section to a member of the family of a
9 member of the Service or of a designated eligible Govern-
10 ment employee after the separation from Government service
11 or the death of such member of the Service or employee or
12 after dissolution of the marriage.

13 (f) The Secretary of State shall review on a continuing
14 basis the health care program provided for in this section.
15 Whenever the Secretary of State determines that all or any
16 part of such program can be provided for as well and as
17 cheaply in other ways, the Secretary may, for such individ-
18 uals, locations, and conditions as the Secretary of State
19 deems appropriate, contract for health care pursuant to such
20 arrangements as the Secretary deems appropriate.

21 SEC. 905. REPRESENTATION EXPENSES.—Notwith-
22 standing section 5536 of title 5, United States Code, the
23 Secretary may provide for official receptions and may pay
24 entertainment and representational expenses (including ex-
25 penses of family members) to enable the Department and the

1 Service to provide for the proper representation of the United
2 States and its interests.

3 CHAPTER 10—LABOR-MANAGEMENT RELATIONS

4 SEC. 1001. LABOR-MANAGEMENT POLICY.—The Con-
5 gress finds that—

6 (1) experience in both private and public employ-
7 ment indicates that the statutory protection of the right
8 of workers to organize, bargain collectively, and par-
9 ticipate through labor organizations of their own choos-
10 ing in decisions which affect them—

11 (A) safeguards the public interest,

12 (B) contributes to the effective conduct of
13 public business, and

14 (C) facilitates and encourages the amicable
15 settlement of disputes between workers and their
16 employers involving conditions of employment;

17 (2) the public interest demands the highest stand-
18 ards of performance by members of the Service and the
19 continuous development and implementation of modern
20 and progressive work practices to facilitate improved
21 performance and efficiency; and

22 (3) the unique conditions of Foreign Service em-
23 ployment require a distinct framework for the develop-
24 ment and implementation of modern, constructive, and

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1 cooperative relationships between management officials
2 and organizations representing members of the Service.
3 Therefore, labor organizations and collective bargaining in
4 the Service are in the public interest and are consistent with
5 the requirement of an effective and efficient Government.
6 The provisions of this chapter should be interpreted in a
7 manner consistent with the requirement of an effective and
8 efficient Government.

9 SEC. 1002. DEFINITIONS.—As used in this chapter, the
10 term—

11 (1) "Authority" means the Federal Labor Rela-
12 tions Authority, described in section 7104(a) of title 5,
13 United States Code;

14 (2) "Board" means the Foreign Service Labor
15 Relations Board, established by section 1006(a);

16 (3) "collective bargaining" means the performance
17 of the mutual obligation of the management repre-
18 sentative of the Department and of the exclusive repre-
19 sentative of employees to meet at reasonable times and
20 to consult and bargain in a good-faith effort to reach
21 agreement with respect to the conditions of employ-
22 ment affecting employees, and to execute, if requested
23 by either party, a written document incorporating any
24 collective bargaining agreement reached, but this obli-

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1 gation does not compel either party to agree to a pro-
2 posal or to make a concession;

3 (4) "collective bargaining agreement" means an
4 agreement entered into as a result of collective bar-
5 gaining under the provisions of this chapter;

6 (5) "conditions of employment" means personnel
7 policies, practices, and matters, whether established by
8 regulation or otherwise, affecting working conditions,
9 but does not include policies, practices, and matters—

10 (A) relating to political activities prohibited
11 abroad or prohibited under subchapter III of
12 chapter 73 of title 5, United States Code;

13 (B) relating to the designation or classifica-
14 tion of any position under section 501;

15 (C) to the extent such matters are specifi-
16 cally provided for by Federal statute; or

17 (D) relating to Government-wide or multi-
18 agency responsibility of the Secretary affecting
19 the rights, benefits, or obligations of individuals
20 employed in agencies other than those which are
21 authorized to utilize the Foreign Service person-
22 nel system;

23 (6) "confidential employee" means an employee
24 who acts in a confidential capacity with respect to an

1 individual who formulates or effectuates management
2 policies in the field of labor-management relations;

3 (7) "dues" means dues, fees, and assessments;

4 (8) "employee" means—

5 (A) a member of the Service who is a citizen
6 of the United States, wherever serving, other
7 than a management official, a confidential em-
8 ployee, a consular agent, or any individual who
9 participates in a strike in violation of section 7311
10 of title 5, United States Code; or

11 (B) a former member of the Service as de-
12 scribed in subparagraph (A) whose employment
13 has ceased because of an unfair labor practice
14 under section 1015 and who has not obtained any
15 other regular and substantially equivalent employ-
16 ment, as determined under regulations prescribed
17 by the Board;

18 (9) "exclusive representative" means any labor
19 organization which is certified as the exclusive repre-
20 sentative of employees under section 1011;

21 (10) "General Counsel" means the General Coun-
22 sel of the Authority;

23 (11) "labor organization" means an organization
24 composed in whole or in part of employees, in which
25 employees participate and pay dues, and which has as

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1 a purpose dealing with the Department concerning
2 grievances (as defined in section 1101) and conditions
3 of employment, but does not include—

4 (A) an organization which, by its constitu-
5 tion, bylaws, tacit agreement among its members,
6 or otherwise, denies membership because of race,
7 color, creed, national origin, sex, age, preferential
8 or nonpreferential civil service status, political af-
9 filiation, marital status, or handicapping condition;

10 (B) an organization which advocates the
11 overthrow of the constitutional form of govern-
12 ment of the United States;

13 (C) an organization sponsored by the Depart-
14 ment; or

15 (D) an organization which participates in the
16 conduct of a strike against the Government or
17 any agency thereof or imposes a duty or obliga-
18 tion to conduct, assist, or participate in such a
19 strike;

20 (12) "management official" means an individual
21 who—

22 (A) is a chief of mission or principal officer;

23 (B) is serving in a position to which ap-
24 pointed by the President, by and with the advice

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1 and consent of the Senate, or by the President
2 alone;

3 (C) occupies a position which in the sole
4 judgment of the Secretary is of comparable impor-
5 tance to the offices mentioned in subparagraph (A)
6 or (B);

7 (D) is serving as a deputy to any individual
8 described by subparagraph (A), (B), or (C);

9 (E) is assigned to carry out functions of the
10 Inspector General ~~of the Foreign Service of the~~
11 *Department of State and the Foreign Service*
12 under section 209; or

13 (F) is engaged in the administration of this
14 chapter or in the formulation of the personnel
15 policies and programs of the Department;

16 (13) "Panel" means the Foreign Service Impasse
17 Disputes Panel, established by section 1010(a); and

18 (14) "person" means an individual, a labor orga-
19 nization, or an agency to which this chapter applies.

20 SEC. 1003. APPLICATION.—(a) This chapter applies
21 only with respect to the Department of State, the Interna-
22 tional Communication Agency, the United States Interna-
23 tional Development Cooperation Agency, the Department of
24 Agriculture, and the Department of Commerce.

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1 (b) The President may by Executive order exclude any
2 subdivision of the Department from coverage under this
3 chapter if the President determines that—

4 (1) the subdivision has as a primary function intel-
5 ligence, counterintelligence, investigative, or national
6 security work, and

7 (2) the provisions of this chapter cannot be ap-
8 plied to that subdivision in a manner consistent with
9 national security requirements and considerations.

10 (c) The President may by Executive order suspend any
11 provision of this chapter with respect to any post, bureau,
12 office, or activity of the Department, if the President deter-
13 mines in writing that the suspension is necessary in the inter-
14 est of national security because of an emergency.

15 SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee
16 has the right to form, join, or assist any labor organization,
17 or to refrain from any such activity, freely and without fear of
18 penalty or reprisal. Each employee shall be protected in the
19 exercise of such right.

20 (b) Except as otherwise provided under this chapter,
21 such right includes the right—

22 (1) to act for a labor organization in the capacity
23 of a representative and, in that capacity, to present the
24 views of the labor organization to the Secretary and

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1 other officials of the Government, including the Con-
2 gress, or other appropriate authorities; and

3 (2) to engage in collective bargaining with respect
4 to conditions of employment through representatives
5 chosen by employees under this chapter.

6 SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to
7 subsection (b), nothing in this chapter shall affect the authori-
8 ty of any management official of the Department, in accord-
9 ance with applicable law—

10 (1) to determine the mission, budget, organization,
11 and internal security practices of the Department, and
12 the number of individuals in the Service or in the De-
13 partment;

14 (2) to hire, assign, direct, lay off, and retain indi-
15 viduals in the Service or in the Department, to sus-
16 pend, remove, or take other disciplinary action against
17 such individuals, and to determine the number of mem-
18 bers of the Service to be promoted and to remove the
19 name of or delay the promotion of any member in ac-
20 cordance with regulations prescribed under section
21 605(b);

22 (3) to assign work, to make determinations with
23 respect to contracting out, and to determine the per-
24 sonnel by which the operations of the Department shall
25 be conducted;

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1 (4) to fill positions from any appropriate source;

2 (5) to determine the need for uniform personnel

3 policies and procedures between or among the agencies

4 to which this chapter applies; and

5 (6) to take whatever actions may be necessary to

6 carry out the mission of the Department during emer-

7 gencies.

8 (b) Nothing in this section shall preclude the Depart-

9 ment and the exclusive representative from negotiating—

10 (1) at the election of the Department, on the num-

11 bers, types, and classes of employees or positions as-

12 signed to any organizational subdivision, work project,

13 or tour of duty, or on the technology, methods, and

14 means of performing work;

15 (2) procedures which management officials of the

16 Department will observe in exercising any function

17 under this section; or

18 (3) appropriate arrangements for employees ad-

19 versely affected by the exercise of any function under

20 this section by such management officials.

21 SEC. 1006. FOREIGN SERVICE LABOR RELATIONS

22 BOARD.—(a) There is established within the Federal Labor

23 Relations Authority the Foreign Service Labor Relations

24 Board. The Board shall be composed of 3 members, 1 of

25 whom shall be the Chairman of the Authority, who shall be

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1 the Chairperson of the Board. The remaining 2 members
2 shall be appointed by the Chairperson of the Board from
3 nominees approved in writing by the agencies to which this
4 chapter applies, and the exclusive representative (if any) of
5 employees in each such agency. In the event of inability to
6 obtain agreement on a nominee, the Chairperson shall ap-
7 point the remaining 2 members from among individuals the
8 Chairperson considers knowledgeable in labor-management
9 relations and the conduct of foreign affairs.

10 (b) The Chairperson shall serve on the Board while
11 serving as Chairman of the Authority. Of the 2 original mem-
12 bers of the Board other than the Chairperson, one shall be
13 appointed for a 2-year term and one shall be appointed for a
14 3-year term. Thereafter, each member of the Board other
15 than the Chairperson shall be appointed for a term of 3 years,
16 except that an individual appointed to fill a vacancy occur-
17 ring before the end of a term shall be appointed for the unex-
18 pired term of the member replaced. The Chairperson may at
19 any time designate an alternate Chairperson from among the
20 members of the Authority.

21 (c) A vacancy on the Board shall not impair the right of
22 the remaining members to exercise the full powers of the
23 Board.

24 (d) The members of the Board, other than the Chairper-
25 son, may not hold another office or position in the Govern-

1 ment except as authorized by law, and shall receive compen-
2 sation at the daily equivalent of the rate payable for level V
3 of the Executive Schedule under section 5316 of title 5,
4 United States Code, for each day they are performing their
5 duties (including traveltime).

6 (e) The Chairperson may remove any other Board
7 member, upon written notice, for corruption, neglect of duty,
8 malfeasance, or demonstrated incapacity to perform his or
9 her functions, established at a hearing, except where the
10 right to a hearing is waived in writing.

11 SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The
12 Board shall—

13 (1) supervise or conduct elections and determine
14 whether a labor organization has been selected as the
15 exclusive representative by a majority of employees
16 who cast valid ballots and otherwise administer the
17 provisions of this chapter relating to the according of
18 exclusive recognition to a labor organization;

19 (2) resolve complaints of alleged unfair labor prac-
20 tices;

21 (3) resolve issues relating to the obligation to bar-
22 gain in good faith;

23 (4) resolve disputes concerning the effect, the in-
24 terpretation, or a claim of breach of a collective bar-

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1 gaining agreement, in accordance with section 1014;
2 and

3 (5) take any action considered necessary to ad-
4 minister effectively the provisions of this chapter.

5 (b) Decisions of the Board under this chapter shall be
6 consistent with decisions rendered by the Authority under
7 chapter 71 of title 5, United States Code, other than in cases
8 in which the Board finds that special circumstances require
9 otherwise. Decisions of the Board under this chapter shall
10 not be construed as precedent by the Authority, or any court
11 or other authority, for any decision under chapter 71 of title
12 5, United States Code.

13 (c) In order to carry out its functions under this chap-
14 ter—

15 (1) the Board shall by regulation adopt procedures
16 to apply in the administration of this chapter; and

17 (2) the Board may—

18 (A) adopt other regulations concerning its
19 functions under this chapter;

20 (B) conduct appropriate inquiries wherever
21 persons subject to this chapter are located;

22 (C) hold hearings;

23 (D) administer oaths, take the testimony or
24 deposition of any individual under oath, and issue
25 subpenas;

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1 (E) require the Department or a labor orga-
2 nization to cease and desist from violations of this
3 chapter and require it to take any remedial action
4 the Board considers appropriate to carry out this
5 chapter; and

6 (F) consistent with the provisions of this
7 chapter, exercise the functions the Authority has
8 under chapter 71 of title 5, United States Code,
9 to the same extent and in the same manner as is
10 the case with respect to persons subject to chap-
11 ter 71 of such title.

12 SEC. 1008. FUNCTIONS OF THE GENERAL COUN-
13 SEL.—The General Counsel may—

14 (1) investigate alleged unfair labor practices under
15 this chapter,

16 (2) file and prosecute complaints under this chap-
17 ter, and

18 (3) exercise such other powers of the Board as the
19 Board may prescribe.

20 SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—

21 (a) Except as provided in section 1014(d), any person ag-
22 grieved by a final order of the Board may, during the 60-day
23 period beginning on the date on which the order was issued,
24 institute an action for judicial review of such order in the
25 United States Court of Appeals for the District of Columbia;

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1 which shall conduct its review on the same basis as an appeal
2 from a decision of a District Court *Columbia*.

3 (b) The Board may petition the United States Court of
4 Appeals for the District of Columbia for the enforcement of
5 any order of the Board under this chapter and for any appro-
6 priate temporary relief or restraining order.

7 (c) Subsection (c) of section 7123 of title 5, United
8 States Code, shall apply to judicial review and enforcement
9 of actions by the Board in the same manner that it applies to
10 judicial review and enforcement of actions of the Authority
11 under chapter 71 of title 5, United States Code.

12 (d) The Board may, upon issuance of a complaint as
13 provided in section 1016 charging that any person has en-
14 gaged in or is engaging in an unfair labor practice, petition
15 the United States District Court for the District of Columbia,
16 for appropriate temporary relief (including a restraining
17 order). Upon the filing of the petition, the court shall cause
18 notice thereof to be served upon the person, and thereupon
19 shall have jurisdiction to grant any temporary relief (includ-
20 ing a temporary restraining order) it considers just and
21 proper. A court shall not grant any temporary relief under
22 this section if it would interfere with the ability of the De-
23 partment to carry out its essential functions or if the Board
24 fails to establish probable cause that an unfair labor practice
25 is being committed.

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1 SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES

2 PANEL.—(a) There is established within the Federal Labor
3 Relations Authority the Foreign Service Impasse Disputes
4 Panel, which shall assist in resolving negotiating impasses
5 arising in the course of collective bargaining under this chap-
6 ter. The Chairperson shall select the Panel from among indi-
7 viduals the Chairperson considers knowledgeable in labor-
8 management relations or the conduct of foreign affairs. The
9 Panel shall be composed of 5 members, as follows:

10 (1) 2 members of the Service (other than a man-
11 agement official, a confidential employee, or a labor or-
12 ganization official);

13 (2) one individual employed by the Department of
14 Labor;

15 (3) one member of the Federal Service Impasses
16 Panel; and

17 (4) one public member who does not hold any
18 other office or position in the Government.

19 The Chairperson of the Board shall set the terms of office for
20 Panel members and determine who shall chair the Panel.

21 (b) Panel members referred to in subsection (a) (3) and
22 (4) shall receive compensation for each day they are perform-
23 ing their duties (including traveltime) at the daily equivalent
24 of the maximum rate payable for grade GS-18 of the Gen-
25 eral Schedule under section 5332 of title 5, United States

1 Code, except that the member who is also a member of the
2 Federal Service Impasses Panel shall not be entitled to pay
3 under this subsection for any day for which he or she receives
4 pay under section 7119(b)(4) of title 5, United State Code.
5 Members of the Panel shall be entitled to travel expenses as
6 provided under section 5703 of title 5, United States Code.

7 (c)(1) The Panel or its designee shall promptly investi-
8 gate any impasse presented to it by a party. The Panel shall
9 consider the impasse and shall either—

10 (A) recommend to the parties to the negotiation
11 procedures for the resolution of the impasse; or

12 (B) assist the parties in resolving the impasse
13 through whatever methods and procedures, including
14 factfinding and recommendations, it may consider ap-
15 propriate to accomplish the purpose of this section.

16 (2) If the parties do not arrive at a settlement after as-
17 sistance by the Panel under paragraph (1), the Panel may—

18 (A) hold hearings;

19 (B) administer oaths, take the testimony or depo-
20 sition of any individual under oath, and issue subpoenas
21 as provided in section 7132 of title 5, United States
22 Code; and

23 (C) take whatever action is necessary and not in-
24 consistent with this chapter to resolve the impasse.

1 (3) Notice of any final action of the Panel under this
2 section shall be promptly served upon the parties, and the
3 action shall be binding on such parties during the term of the
4 collective bargaining agreement unless the parties agree oth-
5 erwise.

6 SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The De-
7 partment shall accord exclusive recognition to a labor organi-
8 zation if the organization has been selected as the representa-
9 tive, in a secret ballot election, by a majority of the employ-
10 ees in a unit who cast valid ballots in the election.

11 (b) If a petition is filed with the Board—

12 (1) by any person alleging—

13 (A) in the case of a unit for which there is
14 no exclusive representative, that 30 percent of the
15 employees in the unit wish to be represented for
16 the purpose of collective bargaining by an exclu-
17 sive representative, or

18 (B) in the case of a unit for which there is an
19 exclusive representative, that 30 percent of the
20 employees in the unit alleged that the exclusive
21 representative is no longer the representative of
22 the majority of the employees in the unit; or

23 (2) by any person seeking clarification of, or an
24 amendment to, a certification then in effect or a matter
25 relating to representation;

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1 the Board shall investigate the petition, and if it has reason-
2 able cause to believe that a question of representation exists,
3 it shall provide an opportunity for a hearing (for which a
4 transcript shall be kept) after reasonable notice. If the Board
5 finds on the record of the hearing that a question of represen-
6 tation exists, the Board shall supervise or conduct an election
7 on the question by secret ballot and shall certify the results
8 thereof. An election under this subsection shall not be con-
9 ducted in any unit within which a valid election under this
10 subsection has been held during the preceding 12 calendar
11 months or with respect to which a labor organization has
12 been certified as the exclusive representative during the pre-
13 ceding 24 calendar months.

14 (c) A labor organization which—

15 (1) has been designated by at least 10 percent of
16 the employees in the unit; or

17 (2) is the exclusive representative of the employ-
18 ees involved;

19 may intervene with respect to a petition filed pursuant to
20 subsection (b) and shall be placed on the ballot of any election
21 under subsection (b) with respect to the petition.

22 (d)(1) The Board shall determine who is eligible to vote
23 in any election under this section and shall establish regula-
24 tions governing any such election, which shall include regula-

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1 tions allowing employees eligible to vote the opportunity to
2 choose—

3 (A) from labor organizations on the ballot, that
4 labor organization which the employees wish to have
5 represent them; or

6 (B) not to be represented by a labor organization.

7 (2) In any election in which more than two choices are
8 on the ballot, the regulations of the Board shall provide for
9 preferential voting. If no choice receives a majority of first
10 preferences, the Board shall distribute to the two choices
11 having the most first preferences the preferences as between
12 those two of the other valid ballots cast. The choice receiving
13 a majority of preferences shall be declared the winner. A
14 labor organization which is declared the winner of the elec-
15 tion shall be certified by the Board as the exclusive repre-
16 sentative.

17 (e) A labor organization seeking exclusive recognition
18 shall submit to the Board and to the Department a roster of
19 its officers and representatives, a copy of its constitution and
20 bylaws, and a statement of its objectives.

21 (f) Exclusive recognition shall not be accorded to a labor
22 organization—

23 (1) if the Board determines that the labor organi-
24 zation is subject to corrupt influence or influences op-
25 posed to democratic principles; or

1 (2) in the case of a petition filed under subsection
2 (b)(1)(A), if there is not credible evidence that at least
3 30 percent of the employees wish to be represented for
4 the purpose of collective bargaining by the labor orga-
5 nization seeking exclusive recognition.

6 (g) Nothing in this section shall be construed to prohibit
7 the waiving of hearings by stipulation for the purpose of a
8 consent election in conformity with regulations and rules or
9 decisions of the Board.

10 SEC. 1012. EMPLOYEES REPRESENTED.—The em-
11 ployees of the Department shall constitute a single and sepa-
12 rate worldwide bargaining unit, from which there shall be
13 excluded—

14 (1) employees engaged in personnel work in other
15 than a purely clerical capacity; and

16 (2) employees engaged in criminal or national se-
17 curity investigations or who audit the work of individ-
18 uals to insure that their functions are discharged hon-
19 estly and with integrity.

20 SEC. 1013. REPRESENTATION RIGHTS AND
21 DUTIES.—(a) A labor organization which has been accorded
22 exclusive recognition is the exclusive representative of, and is
23 entitled to act for, and negotiate collective bargaining agree-
24 ments covering, all employees in the unit described in section
25 1012. An exclusive representative is responsible for repre-

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1 sending the interests of all employees in that unit without
2 discrimination and without regard to labor organization mem-
3 bership.

4 (b)(1) An exclusive representative shall be given the op-
5 portunity to be represented at—

6 (A) any formal discussion between one or more
7 representatives of the Department and one or more
8 employees in the unit (or their representatives), con-
9 cerning any grievance (as defined in section 1101) or
10 any personnel policy or practice or other general condi-
11 tion of employment; and

12 (B) any examination of an employee by a Depart-
13 ment representative in connection with an investigation
14 if—

15 (i) the employee reasonably believes that the
16 examination may result in disciplinary action
17 against the employee, and

18 (ii) the employee requests such representa-
19 tion.

20 (2) The Department shall annually inform employees of
21 their rights under paragraph (1)(B).

22 (c) The Department and the exclusive representative,
23 through appropriate representatives, shall meet and negotiate
24 in good faith for the purposes of arriving at a collective bar-
25 gaining agreement. In addition, the Department and the ex-

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1 exclusive representative may determine appropriate techniques,
2 consistent with the provisions of section 1010, to assist in
3 any negotiation.

4 (d) The rights of an exclusive representative under this
5 section shall not preclude an employee from—

6 (1) being represented by an attorney or other rep-
7 resentative of the employee's own choosing, other than
8 the exclusive representative, in any separation de-
9 scribed in section 1101(a)(1)(A) or any proceeding re-
10 lating to such a separation; or

11 (2) exercising grievance or appeal rights estab-
12 lished by law, rule, or regulation.

13 (e) The duty of the Department and the exclusive repre-
14 sentative to negotiate in good faith shall include the obliga-
15 tion—

16 (1) to approach the negotiations with a sincere re-
17 solve to reach a collective bargaining agreement;

18 (2) to be represented at the negotiations by duly
19 authorized representatives prepared to discuss and ne-
20 gotiate on any condition of employment;

21 (3) to meet at reasonable times and convenient
22 places as frequently as may be necessary and to avoid
23 unnecessary delays;

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1 (4) for the Department to furnish to the exclusive
2 representative, or its authorized representative, upon
3 request and to the extent not prohibited by law, data—

4 (A) which is normally maintained by the De-
5 partment in the regular course of business;

6 (B) which is reasonably available and neces-
7 sary for full and proper discussion, understanding,
8 and negotiation of subjects within the scope of
9 collective bargaining; and

10 (C) which does not constitute guidance,
11 advice, counsel, or training provided for manage-
12 ment officials or confidential employees, relating
13 to collective bargaining;

14 (5) to negotiate jointly with respect to conditions
15 of employment applicable to employees in more than
16 one of the agencies authorized to utilize the Foreign
17 Service personnel system, as determined by the heads
18 of such agencies; and

19 (6) if agreement is reached, to execute, upon the
20 request of any party to the negotiation, a written docu-
21 ment embodying the agreed terms, and to take the
22 steps necessary to implement the agreement.

23 (f)(1) An agreement between the Department and the
24 exclusive representative shall be subject to approval by the
25 Secretary.

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1 (2) The Secretary shall approve the agreement within
2 30 days after the date of the agreement unless the Secretary
3 finds in writing that the agreement is contrary to applicable
4 law, rule, or regulation.

5 (3) Unless the Secretary disapproves the agreement by
6 making a finding under paragraph (2), the agreement shall
7 take effect after 30 days from its execution and shall be bind-
8 ing on the Department and the exclusive representative sub-
9 ject to all applicable laws, orders, and regulations.

10 (g) The Department shall consult with the exclusive
11 representative with respect to Government-wide or multi-
12 agency matters affecting the rights, benefits, or obligations of
13 individuals employed in agencies not authorized to utilize the
14 Foreign Service personnel system. The exclusive representa-
15 tive shall be informed of any change proposed by the Depart-
16 ment with respect to such matters, and shall be permitted
17 reasonable time to present its views and recommendations
18 regarding such change. The Department shall consider the
19 views and recommendations of the exclusive representative
20 before taking final action on any such change, and shall pro-
21 vide the exclusive representative a written statement of the
22 reasons for taking the final action.

23 SEC. 1014. RESOLUTION OF IMPLEMENTATION DIS-
24 PUTES.—(a) Any dispute between the Department and the
25 exclusive representative concerning the effect, interpretation,

1 or a claim of breach of a collective bargaining agreement
2 shall be resolved through procedures negotiated by the De-
3 partment and the exclusive representative. Any procedures
4 negotiated under this section shall—

5 (1) be fair and simple,

6 (2) provide for expeditious processing, and

7 (3) include provision for appeal to the Foreign
8 Service Grievance Board by either party of any dispute
9 not satisfactorily settled.

10 (b) Either party to an appeal under subsection (a)(3)
11 may file with the Board an exception to the action of the
12 Foreign Service Grievance Board in resolving the implemen-
13 tation dispute. If, upon review, the Board finds that the
14 action is deficient—

15 (1) because it is contrary to any law, rule, or reg-
16 ulation; or

17 (2) on other grounds similar to those applied by
18 Federal courts in private sector labor-management re-
19 lations;

20 the Board may take such action and make such recommenda-
21 tions concerning the Foreign Service Grievance Board action
22 as it considers necessary, consistent with applicable laws,
23 rules, and regulations.

24 (c) If no exception to a Foreign Service Grievance
25 Board action is filed under subsection (b) within 30 days after

1 such action is communicated to the parties, such action shall
2 become final and binding and shall be implemented by the
3 parties.

4 (d) Resolutions of disputes under this section shall not
5 be subject to judicial review.

6 SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall
7 be an unfair labor practice for the Department—

8 (1) to interfere with, restrain, or coerce any em-
9 ployee in the exercise by the employee of any right
10 under this chapter;

11 (2) to encourage or discourage membership in any
12 labor organization by discrimination in connection with
13 hiring, tenure, promotion, or other conditions of em-
14 ployment;

15 (3) to sponsor, control, or otherwise assist any
16 labor organization, other than to furnish upon request
17 customary and routine services and facilities on an im-
18 partial basis to labor organizations having equivalent
19 status;

20 (4) to discipline or otherwise discriminate against
21 an employee because the employee has filed a com-
22 plaint or petition, or has given any information, affida-
23 vit, or testimony under this chapter;

1 (5) to refuse to consult or negotiate in good faith
2 with a labor organization, as required under this chap-
3 ter;

4 (6) to fail or refuse to cooperate in impasse proce-
5 dures and impasse decisions, as required under this
6 chapter;

7 (7) to enforce any rule or regulation (other than a
8 rule or regulation implementing section 2302 of title 5,
9 United States Code) which is in conflict with an appli-
10 cable collective bargaining agreement if the agreement
11 was in effect before the date the rule or regulation was
12 prescribed; or

13 (8) to fail or refuse otherwise to comply with any
14 provision of this chapter.

15 (b) It shall be an unfair labor practice for a labor organi-
16 zation—

17 (1) to interfere with, restrain, or coerce any em-
18 ployee in the exercise by the employee of any right
19 under this chapter;

20 (2) to cause or attempt to cause the Department
21 to discriminate against any employee in the exercise by
22 the employee of any right under this chapter;

23 (3) to coerce, discipline, fine, or attempt to coerce
24 a member of the labor organization as punishment or
25 reprisal, or for the purpose of hindering or impeding

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1 the member's work performance or productivity as an
2 employee or the discharge of the member's functions as
3 an employee;

4 (4) to discriminate against an employee with
5 regard to the terms and conditions of membership in
6 the labor organization on the basis of race, color,
7 creed, national origin, sex, age, preferential or nonpref-
8 erential civil service status, political affiliation, marital
9 status, or handicapping condition;

10 (5) to refuse to consult or negotiate in good faith
11 with the Department, as required under this chapter;

12 (6) to fail or refuse to cooperate in impasse proce-
13 dures and impasse decisions, as required under this
14 chapter;

15 (7)(A) to call, or participate in, a strike, work
16 stoppage, or slowdown, or to picket the operations of
17 the Department, but informational picketing in the
18 United States which does not interfere with such oper-
19 ations shall not be considered an unfair labor practice;
20 *and the Department in a labor-management dispute if*
21 *such picketing interferes with the Department's oper-*
22 *ations, or*

23 (B) to condone any unfair labor practice described
24 in subparagraph (A) by failing to take action to prevent
25 or stop such activity;

1 (8) to deny membership to any employee in the
2 unit represented by the labor organization except—

3 (A) for failure to tender dues uniformly re-
4 quired as a condition of acquiring and retaining
5 membership, or

6 (B) in the exercise of disciplinary procedures
7 consistent with the organization's constitution or
8 bylaws and this chapter; or

9 (9) to fail or refuse otherwise to comply with any
10 provision of this chapter.

11 *Nothing in paragraph (7) of this subsection shall result in*
12 *any informational picketing in the United States which does*
13 *not interfere with the Department's operations being consid-*
14 *ered as an unfair labor practice.*

15 (c) The expression of any personal view, argument, or
16 opinion, or the making of any statement, which—

17 (1) publicizes the fact of a representational elec-
18 tion and encourages employees to exercise their right
19 to vote in such an election;

20 (2) corrects the record with respect to any false or
21 misleading statement made by any person; or

22 (3) informs employees of the Government's policy
23 relating to labor-management relations and representa-
24 tion,

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1 if the expression contains no threat of reprisal or force or
2 promise of benefit and was not made under coercive condi-
3 tions shall not—

4 (A) constitute an unfair labor practice under this
5 chapter, or

6 (B) constitute grounds for the setting aside of any
7 election conducted under this chapter.

8 (d) Issues which can properly be raised under an appeals
9 procedure may not be raised as unfair labor practices prohib-
10 ited under this section. Except for matters wherein, under
11 section 1109(b), an employee has an option of using the
12 grievance procedure under chapter 11 or an appeals proce-
13 dure, issues which can be raised under section 1014 or chap-
14 ter 11 may, in the discretion of the aggrieved party, be raised
15 either under such section or chapter or else raised as an
16 unfair labor practice under this section, but may not be raised
17 both under this section and under section 1014 or chapter 11.

18 SEC. 1016. PREVENTION OF UNFAIR LABOR PRAC-
19 TICES.—(a) If the Department or labor organization is
20 charged by any person with having engaged in or engaging in
21 an unfair labor practice, the General Counsel shall investi-
22 gate the charge and may issue and cause to be served upon
23 the Department or labor organization a complaint. In any
24 case in which the General Counsel does not issue a complaint
25 because the charge fails to state an unfair labor practice, the

1 General Counsel shall provide the person making the charge
2 a written statement of the reasons for not issuing a com-
3 plaint.

4 (b) Any complaint under subsection (a) shall contain a
5 notice—

6 (1) of the charge;

7 (2) that a hearing will be held before the Board
8 (or any member thereof or before an individual em-
9 ployed by the Board and designated for such purpose);
10 and

11 (3) of the time and place fixed for the hearing.

12 (c) The labor organization or Department involved shall
13 have the right to file an answer to the original and any
14 amended complaint and to appear in person or otherwise and
15 give testimony at the time and place fixed in the complaint
16 for the hearing.

17 (d)(1) Except as provided in paragraph (2), no complaint
18 shall be issued based on any alleged unfair labor practice
19 which occurred more than 6 months before the filing of the
20 charge with the Board.

21 (2) If the General Counsel determines that the person
22 filing any charge was prevented from filing the charge during
23 the 6-month period referred to in paragraph (1) by reason
24 of—

1 (A) any failure of the Department or labor organi-
2 zation against which the charge is made to perform a
3 duty owed to the person, or

4 (B) any concealment which prevented discovery of
5 the alleged unfair labor practice during the 6-month
6 period,

7 the General Counsel may issue a complaint based on the
8 charge if the charge was filed during the 6-month period be-
9 ginning on the day of the discovery by the person of the
10 alleged unfair labor practice.

11 (e) The General Counsel may prescribe regulations pro-
12 viding for informal methods by which the alleged unfair labor
13 practice may be resolved prior to the issuance of a complaint.

14 (f) The Board (or any member thereof or any individual
15 employed by the Board and designated for such purpose)
16 shall conduct a hearing on the complaint not earlier than 5
17 days after the date on which the complaint is served. In the
18 discretion of the individual or individuals conducting the
19 hearing, any person involved may be allowed to intervene in
20 the hearing and to present testimony. Any such hearing
21 shall, to the extent practicable, be conducted in accordance
22 with the provisions of subchapter II of chapter 5 of title 5,
23 United States Code, except that the parties shall not be
24 bound by rules of evidence, whether statutory, common law,
25 or adopted by a court. A transcript shall be kept of the hear-

1 ing. After such a hearing the Board, in its discretion, may
2 upon notice receive further evidence or hear argument.

3 (g) If the Board (or any member thereof or any individ-
4 ual employed by the Board and designated for such purpose)
5 determines after any hearing on a complaint under subsection
6 (f) that the preponderance of the evidence received demon-
7 strates that the Department or labor organization named in
8 the complaint has engaged in or is engaging in an unfair
9 labor practice, then the individual or individuals conducting
10 the hearing shall state in writing their findings of fact and
11 shall issue and cause to be served on the Department or labor
12 organization an order—

13 (1) to cease and desist from any such unfair labor
14 practice in which the Department or labor organization
15 is engaged;

16 (2) requiring the parties to renegotiate a collective
17 bargaining agreement in accordance with the order of
18 the Board and requiring that the agreement, as amend-
19 ed, be given retroactive effect;

20 (3) requiring reinstatement of an employee with
21 backpay in accordance with section 5596 of title 5,
22 United States Code; or

23 (4) including any combination of the actions de-
24 scribed in paragraphs (1) through (3) or such other
25 action as will carry out the purpose of this chapter.

1 If any such order requires reinstatement of an employee with
2 backpay, backpay may be required of the Department (as
3 provided in section 5596 of title 5, United States Code) or of
4 the labor organization, as the case may be, which is found to
5 have engaged in the unfair labor practice involved.

6 (h) If the individual or individuals conducting the hear-
7 ing determine that the preponderance of the evidence re-
8 ceived fails to demonstrate that the Department or labor or-
9 ganization named in the complaint has engaged in or is en-
10 gaging in an unfair labor practice, the individual or individ-
11 uals shall state in writing their findings of fact and shall issue
12 an order dismissing the complaint.

13 SEC. 1017. STANDARDS OF CONDUCT FOR LABOR OR-
14 GANIZATIONS.—(a) The Department shall accord recognition
15 only to a labor organization that is free from corrupt influ-
16 ences and influences opposed to basic democratic principles.
17 Except as provided in subsection (b), an organization is not
18 required to prove that it is free from such influences if it is
19 subject to a governing requirement adopted by the organiza-
20 tion or by a national or international labor organization or
21 federation of labor organizations with which it is affiliated, or
22 in which it participates, containing explicit and detailed pro-
23 visions to which it subscribes calling for—

24 (1) the maintenance of democratic procedures and
25 practices, including—

1 (A) provisions for periodic elections to be
2 conducted subject to recognized safeguards, and

3 (B) provisions defining and securing the right
4 of individual members to participate in the affairs
5 of the organization, to receive fair and equal
6 treatment under the governing rules of the organi-
7 zation, and to receive fair process in disciplinary
8 proceedings;

9 (2) the exclusion from office in the organization of
10 persons affiliated with Communist or other totalitarian
11 movements and persons identified with corrupt influ-
12 ences;

13 (3) the prohibition of business or financial interests
14 on the part of organization officers and agents which
15 conflict with their duty to the organization and its
16 members; and

17 (4) the maintenance of fiscal integrity in the con-
18 duct of the affairs of the organization, including provi-
19 sions for accounting and financial controls and regular
20 financial reports or summaries to be made available to
21 members.

22 (b) A labor organization may be required to furnish evi-
23 dence of its freedom from corrupt influences opposed to basic
24 democratic principles if there is reasonable cause to believe
25 that—

1 (1) the organization has been suspended or ex-
2 pelled from, or is subject to other sanction by, a parent
3 labor organization, or federation of organizations with
4 which it has been affiliated, because it has demonstrat-
5 ed an unwillingness or inability to comply with govern-
6 ing requirements comparable in purpose to those re-
7 quired by subsection (a); or

8 (2) the organization is in fact subject to influences
9 that would preclude recognition under this chapter.

10 (c) A labor organization which has or seeks recognition
11 as a representative of employees under this chapter shall file
12 financial and other reports with the Assistant Secretary of
13 Labor for Labor Management Relations, provide for bonding
14 of officials and others employed by the organization, and
15 comply with trusteeship and election standards.

16 (d) The Assistant Secretary of Labor shall prescribe
17 such regulations as are necessary to carry out this section.
18 Such regulations shall conform generally to the principles ap-
19 plied to labor organizations in the private sector. Complaints
20 of violations of this section shall be filed with the Assistant
21 Secretary. In any matter arising under this section, the As-
22 sistant Secretary may require a labor organization to cease
23 and desist from violations of this section and require it to take
24 such actions as the Assistant Secretary considers appropriate
25 to carry out the policies of this section.

1 (e) This chapter does not authorize participation in the
2 management of a labor organization or acting as a repre-
3 sentative of a labor organization by a management official, a
4 confidential employee, or any other employee if the participa-
5 tion or activity would result in a conflict or apparent conflict
6 of interest or would otherwise be incompatible with law or
7 with the official functions of such management official or such
8 employee.

9 (f) If the Board finds that any labor organization has
10 willfully and intentionally violated section 1015(b)(7) by
11 omission or commission with regard to any strike, work stop-
12 page, slowdown, the Board shall—

13 (1) revoke the exclusive recognition status of the
14 labor organization, which shall then immediately cease
15 to be legally entitled and obligated to represent em-
16 ployees in the unit; or

17 (2) take any other appropriate disciplinary action.

18 SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the
19 Department has received from any individual a written as-
20 signment which authorizes the Department to deduct from
21 the salary of that individual amounts for the payment of regu-
22 lar and periodic dues of the exclusive representative, the De-
23 partment shall honor the assignment. Any such assignment
24 shall be made at no cost to the exclusive representative or
25 the individual. Except as provided in subsection (b), any such

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1 assignment may not be revoked for a period of one year from
2 its execution.

3 (b) An assignment for deduction of dues shall terminate
4 when—

5 (1) the labor organization ceases to be the exclu-
6 sive representative;

7 (2) the individual ceases to receive a salary from
8 the Department as a member of the Service; or

9 (3) the individual is suspended or expelled from
10 membership in the exclusive representative.

11 (c) During any period when no labor organization is cer-
12 tified as the exclusive representative of employees in the De-
13 partment, the Department shall have the duty to negotiate
14 with a labor organization which has filed a petition under
15 section 1011(b)(1)(A) alleging that 10 percent of the employ-
16 ees in the Department have membership in the organization
17 if the Board has determined that the petition is valid. Negoti-
18 ations under this subsection shall be concerned solely with
19 the deduction of dues of the labor organization from the
20 salary of the individuals who are members of the labor orga-
21 nization and who make a voluntary allotment for that pur-
22 pose. Any agreement between the Department and a labor
23 organization under this subsection shall terminate upon the
24 certification of an exclusive representative of any employees
25 to whom the agreement applies.

1 (d) The following provisions shall apply to the use of
2 official time:

3 (1) Any employee representing an exclusive repre-
4 sentative in the negotiation of a collective bargaining
5 agreement under this chapter shall be authorized offi-
6 cial time for such purposes, including attendance at im-
7 passe proceedings, during the time the employee other-
8 wise would be in a duty status. The number of employ-
9 ees for whom official time is authorized under this
10 paragraph shall not exceed the number of individuals
11 designated as representing the Department for such
12 purposes.

13 (2) Any activities performed by any employee re-
14 lating to the internal business of the labor organization,
15 including the solicitation of membership, elections of
16 labor organization officials, and collection of dues, shall
17 be performed during the time the employee is in a non-
18 duty status.

19 (3) Except as provided in paragraph (1), the
20 Board shall determine whether any employee partici-
21 pating for, or on behalf of, a labor organization in any
22 phase of proceedings before the Board shall be author-
23 ized official time for such purpose during the time the
24 employee would otherwise be in a duty status.

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1 (4) Except as provided in paragraphs (1), (2), and
2 (3), any employee representing an exclusive repre-
3 sentative, or engaged in any other matter covered by
4 this chapter, shall be granted official time in any
5 amount the Department and the exclusive representa-
6 tive agree to be reasonable, necessary, and in the
7 public interest.

8 CHAPTER 11—GRIEVANCES

9 SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1)
10 Except as provided in subsection (b), for purposes of this
11 chapter, the term “grievance” means any act, omission, or
12 condition subject to the control of the Secretary which is al-
13 leged to deprive a member of the Service who is a citizen of
14 the United States of a right or benefit authorized by law or
15 regulation or which is otherwise a source of concern or dis-
16 satisfaction to the member, including—

17 (A) separation of the member allegedly contrary
18 to laws or regulations, or predicated upon alleged inac-
19 curacy, omission, error, or falsely prejudicial character
20 of information in any part of the official personnel
21 record of the member;

22 (B) other alleged violation, misinterpretation, or
23 misapplication of applicable laws, regulations, or pub-
24 lished policy affecting the terms and conditions of the
25 employment or career status of the member;

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1 (C) allegedly wrongful disciplinary action against
2 the member;

3 (D) dissatisfaction with respect to the working en-
4 vironment of the member;

5 (E) alleged inaccuracy, omission, error, or falsely
6 prejudicial character of information in the official per-
7 sonnel record of the member which is or could be prej-
8 udicial to the member;

9 (F) action alleged to be in the nature of reprisal
10 or other interference with freedom of action in connec-
11 tion with participation by the member in procedures
12 under this chapter; and

13 (G) alleged denial of an allowance, premium pay,
14 or other financial benefit to which the member claims
15 entitlement under applicable laws or regulations.

16 (2) The scope of grievances described in paragraph (1)
17 may be modified by written agreement between the Depart-
18 ment and the labor organization accorded recognition as the
19 exclusive representative under chapter 10 (hereinafter in this
20 chapter referred to as the "exclusive representative").

21 (b) For purposes of this chapter, the term "grievance"
22 does not include—

23 (1) an individual assignment of a member under
24 chapter 5, other than an assignment alleged to be con-
25 trary to law or regulation;

1 (2) the judgment of a selection board established
2 under section 602, a tenure board established under
3 section 306(b), or any other equivalent body estab-
4 lished by laws or regulations which similarly evaluates
5 the performance of members of the Service on a com-
6 parative basis;

7 (3) the expiration of a limited appointment, the
8 termination of a limited appointment under section
9 611, or the denial of a limited career extension or of a
10 renewal of a limited career extension under section
11 607(b); or

12 (4) any complaint or appeal where a specific stat-
13 utory hearing procedure exists, except as provided in
14 section 1109(b).

15 (c) This chapter applies only with respect to the Depart-
16 ment of State, the International Communication Agency, the
17 United States International Development Cooperation
18 Agency, the Department of Agriculture, and the Department
19 of Commerce.

20 SEC. 1102. GRIEVANCES CONCERNING FORMER MEM-
21 BERS.—Within the time limitations of section 1104, a former
22 member of the Service or the surviving spouse (or, if none,
23 another member of the family) of a deceased member or
24 former member of the Service may file a grievance under this

1 chapter only with respect to allegations described in section
2 1101(a)(1)(G).

3 SEC. 1103. FREEDOM OF ACTION.—(a) Any individual
4 filing a grievance under this chapter (hereinafter in this chap-
5 ter referred to as the “grievant”), and any witness, labor
6 organization, or other person involved in a grievance pro-
7 ceeding, shall be free from any restraint, interference, coer-
8 cion, harassment, discrimination, or reprisal in those proceed-
9 ings or by virtue of them.

10 (b)(1) Except with respect to grievances described in
11 section 1101(a)(1)(A), a grievant who is a member of a bar-
12 gaining unit represented by an exclusive representative shall
13 be represented at every stage of the proceedings only if rep-
14 resented by that exclusive representative. Such a grievant
15 has the right to represent himself or herself under depart-
16 mental procedures with respect to a grievance; however, the
17 exclusive representative shall have the right to be present
18 during the grievance proceedings.

19 (2) Any grievant who is not a member of a bargaining
20 unit, or whose grievance is described in section
21 1101(a)(1)(A), has the right at every stage of the proceedings
22 to representation of his or her own choosing.

23 (3) The grievant, and any representative of the grievant
24 who is a member of the Service or employee of the Depart-
25 ment, shall be granted reasonable periods of administrative

1 leave to prepare and present the grievance and to attend pro-
2 ceedings under this chapter.

3 (c) Any witness who is a member of the Service or em-
4 ployee of the Department shall be granted reasonable periods
5 of administrative leave to appear and testify at any proceed-
6 ings under this chapter.

7 (d)(1) No record of—

8 (A) a determination by the Secretary to reject a
9 recommendation of the Foreign Service Grievance
10 Board,

11 (B) a finding by the Grievance Board against the
12 grievant, or

13 (C) the fact that a grievance proceeding is pend-
14 ing or has been held,

15 shall be entered in the personnel records of the grievant
16 (except by order of the Grievance Board as a remedy for the
17 grievance) or those of any other individual connected with
18 the grievance.

19 (2) The Department shall maintain records pertaining to
20 grievances under appropriate safeguards to preserve
21 confidentiality.

22 (3) The Foreign Service Grievance Board may enforce
23 compliance with the requirements of paragraphs (1) and (2).

1 (e) The Department will use its best endeavors to expe-
2 dite security clearance procedures whenever necessary to
3 assure a fair and prompt resolution of a grievance.

4 SEC. 1104. TIME LIMITATIONS.—(a) A grievance is
5 forever barred unless it is filed with the Department within a
6 period of 3 years after the occurrence or occurrences giving
7 rise to the grievance or such shorter period as may be agreed
8 to by the Department and the exclusive representative.
9 There shall be excluded from the computation of any such
10 period any time during which, as determined by the Foreign
11 Service Grievance Board, the grievant was unaware of the
12 grounds for the grievance and could not have discovered such
13 grounds through reasonable diligence.

14 (b) If a grievance is not resolved under Department pro-
15 cedures (which have been negotiated with the exclusive rep-
16 resentative, if any) within ninety days after it is filed with the
17 Department, the exclusive representative (on behalf of a
18 grievant who is a member of the bargaining unit) or a griev-
19 ant who is not a member of such bargaining unit or whose
20 grievance is described in section 1101(a)(1)(A) shall be enti-
21 tled to file a grievance with the Foreign Service Grievance
22 Board for its consideration and resolution.

23 SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—

24 (a) There is established the Foreign Service Grievance Board
25 (hereinafter in this chapter referred to as the "Board"). The

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1 Board shall consist of no fewer than 5 members who shall be
2 independent, distinguished citizens of the United States, well
3 known for their integrity, who are not employees of the De-
4 partment or members of the Service.

5 (b) The Chairperson and other members of the Board
6 shall be appointed by the Secretary of State, from nominees
7 approved in writing by the agencies to which this chapter
8 applies and the exclusive representative (if any) for each such
9 agency. Each member of the Board shall be appointed for a
10 term of 2 years, subject to renewal with the same written
11 approvals required for initial appointment. In the event of a
12 vacancy on the Board, an appointment for the unexpired
13 term may be made by the Secretary of State in accordance
14 with the procedures specified in this section. In the event of
15 inability to obtain agreement on a nominee, each such agency
16 and exclusive representative shall select 2 nominees and
17 shall, in an order determined by lot, in turn strike a name
18 from a list of such nominees until only one name remains.
19 For purposes of this section, the nominee whose name re-
20 mains shall be deemed to be approved in writing by each
21 such agency head and exclusive representative.

22 (c) Members of the Board who are not employees of the
23 Government shall be paid for each day they are performing
24 their duties (including traveltime) at the daily equivalent of

1 the maximum rate payable for grade GS-18 of the General
2 Schedule under section 5332 of title 5, United States Code.

3 (d) The Secretary of State may, upon written notice,
4 remove a Board member for corruption, neglect of duty, mal-
5 feasance, or demonstrated incapacity to perform his or her
6 functions, established at a hearing (unless the right to a hear-
7 ing is waived in writing by the Board member).

8 (e) The Board may obtain facilities, services, and sup-
9 plies through the general administrative services of the De-
10 partment of State. All expenses of the Board, including nec-
11 essary costs of the travel and travel-related expenses of a
12 grievant, shall be paid out of funds appropriated to the De-
13 partment of State for obligation and expenditure by the
14 Board. At the request of the Board, employees of the Depart-
15 ment and members of the Service may be assigned as staff
16 employees for the Board. Within the limits of appropriated
17 funds, the Board may appoint and fix the compensation of
18 such other employees as the Board considers necessary to
19 carry out its functions. The individuals so appointed or as-
20 signed shall be responsible solely to the Board, and the Board
21 shall prepare the performance evaluation reports for such in-
22 dividuals. The records of the Board shall be maintained by
23 the Board and shall be separate from all other records of the
24 Department of State under appropriate safeguards to
25 preserve confidentiality.

1 SEC. 1106. BOARD PROCEDURES.—The Board may
2 adopt regulations concerning its organization and procedures.
3 Such regulations shall include provision for the following:

4 (1) The Board shall conduct a hearing at the
5 request of a grievant in any case which involves—

6 (A) disciplinary action or the retirement of a
7 grievant from the Service under section 607 or
8 608, or

9 (B) issues which, in the judgment of the
10 Board, can best be resolved by a hearing or pres-
11 entation of oral argument.

12 (2) The grievant, the representatives of the griev-
13 ant, the exclusive representative (if the grievant is a
14 member of the bargaining unit represented by the ex-
15 clusive representative), and the representatives of the
16 Department are entitled to be present at the hearing.
17 The Board may, after considering the views of the par-
18 ties and any other individuals connected with the
19 grievance, decide that a hearing should be open to
20 others. Testimony at a hearing shall be given under
21 oath, which any Board member or individual designat-
22 ed by the Board shall have authority to administer.

23 (3) Each party shall be entitled to examine and
24 cross-examine witnesses at the hearing or by deposi-
25 tion and to serve interrogatories upon another party

1 and have such interrogatories answered by the other
2 party unless the Board finds such interrogatory irrele-
3 vant, immaterial, or unduly repetitive. Upon request of
4 the Board, or upon a request of the grievant deemed
5 relevant and material by the Board, an agency shall
6 promptly make available at the hearing or by deposi-
7 tion any witness under its control, supervision, or re-
8 sponsibility, except that if the Board determines that
9 the presence of such witness at the hearing is required
10 for just resolution of the grievance, then the witness
11 shall be made available at the hearing, with necessary
12 costs and travel expenses paid by the Department of
13 State.

14 (4) During any hearing held by the Board, any
15 oral or documentary evidence may be received, but the
16 Board shall exclude any irrelevant, immaterial, or
17 unduly repetitious evidence, as determined under sec-
18 tion 556 of title 5, United States Code.

19 (5) A verbatim transcript shall be made of any
20 hearing and shall be part of the record of proceedings.

21 (6) In those grievances in which the Board does
22 not hold a hearing, the Board shall afford to each party
23 the opportunity to review and to supplement, by writ-
24 ten submissions, the record of proceedings prior to the

1 decision by the Board. The decision of the Board shall
2 be based exclusively on the record of proceedings.

3 (7) The Board may act by or through panels or
4 individual members designated by the Chairperson,
5 except that hearings within the continental United
6 States shall be held by panels of at least three mem-
7 bers unless the parties agree otherwise. References in
8 this chapter to the Board shall be considered to be ref-
9 erences to a panel or member of the Board where ap-
10 propriate. All members of the Board shall act as im-
11 partial individuals in considering grievances.

12 (8) If the Board determines that the Department
13 is considering the involuntary separation of the griev-
14 ant, disciplinary action against the grievant, or recov-
15 ery from the grievant of alleged overpayment of salary,
16 expenses, or allowances, which is related to a griev-
17 ance pending before the Board and that such action
18 should be suspended, the Department shall suspend
19 such action until the Board has ruled upon the griev-
20 ance. Notwithstanding such suspension of action, the
21 head of the agency concerned or a chief of mission or
22 principal officer may exclude the grievant from official
23 premises or from the performance of specified functions
24 when such exclusion is determined in writing to be es-

1 sential to the functioning of the post or office to which
2 the grievant is assigned.

3 (9) The Board may reconsider any decision upon
4 presentation of newly discovered or previously unavail-
5 able material evidence.

6 SEC. 1107. BOARD DECISIONS.—(a) Upon completion
7 of its proceedings, the Board shall expeditiously decide the
8 grievance on the basis of the record of proceedings. In each
9 case the decision of the Board shall be in writing, and shall
10 include findings of fact and a statement of the reasons for the
11 decision of the Board.

12 (b) If the Board finds that the grievance is meritorious,
13 the Board shall have the authority to direct the Depart-
14 ment—

15 (1) to correct any official personnel record relating
16 to the grievant which the Board finds to be inaccurate
17 or erroneous, to have an omission, or to contain infor-
18 mation of a falsely prejudicial character;

19 (2) to reverse a decision denying the grievant
20 compensation or any other perquisite of employment
21 authorized by laws or regulations when the Board finds
22 that such decision was arbitrary, capricious, or con-
23 trary to laws or regulations;

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1 (3) to retain in the Service a member whose sepa-
2 ration would be in consequence of the matter by which
3 the member is aggrieved;

4 (4) to reinstate the grievant, and to grant the
5 grievant back pay in accordance with section
6 5596(b)(1) of title 5, United States Code;

7 (5) to pay reasonable attorney fees to the grievant
8 to the same extent and in the same manner as such
9 fees may be required by the Merit Systems Protection
10 Board under section 7701(g) of title 5, United States
11 Code; and

12 (6) to take such other remedial action as may be
13 appropriate under procedures agreed to by the Depart-
14 ment and the exclusive representative (if any).

15 (c) Except as provided in subsection (d), decisions of the
16 Board under this chapter shall be final, subject only to judi-
17 cial review as provided in section 1110.

18 (d) If the Board finds that the grievance is meritorious
19 and that remedial action should be taken that relates directly
20 to promotion or assignment of the grievant or to other
21 remedial action not otherwise provided for in this section, or
22 if the Board finds that the evidence before it warrants disci-
23 plinary action against any employee of the Department or
24 member of the Service, it shall make an appropriate recom-
25 mendation to the Secretary. The Secretary shall make a

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1 written decision on the recommendation of the Board within
2 30 days after receiving the recommendation. The Secretary
3 shall implement the recommendation of the Board except to
4 the extent that, in a decision made within that 30-day period,
5 the Secretary rejects the recommendation in whole or in part
6 on the basis of a determination that implementation of the
7 recommendation would be contrary to law or would adverse-
8 ly affect the foreign policy or national security of the United
9 States. If the Secretary rejects the recommendation in whole
10 or in part, the decision shall specify the reasons for such
11 action. Pending the decision of the Secretary, there shall be
12 no ex parte communication concerning the grievance between
13 the Secretary and any person involved in the proceedings of
14 the Board. The Secretary shall, however, have access to the
15 entire record of the proceedings of the Board.

16 SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is
17 denied access to any agency record prior to or during the
18 consideration of the grievance by the Department, the griev-
19 ant may raise such denial before the Board in connection
20 with the grievance.

21 (b) In considering a grievance, the Board shall have
22 access to any agency record as follows:

23 (1)(A) The Board shall request access to any
24 agency record which the grievant requests to substanti-

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1 ate the grievance if the Board determines that such
2 record may be relevant and material to the grievance.

3 (B) The Board may request access to any other
4 agency record which the Board determines may be rel-
5 evant and material to the grievance.

6 (2) Any agency shall make available to the Board
7 any agency record requested under paragraph (1)
8 unless the head or deputy head of such agency person-
9 ally certifies in writing to the Board that disclosure of
10 the record to the Board and the grievant would ad-
11 versely affect the foreign policy or national security of
12 the United States or that such disclosure is prohibited
13 by law. If such a certification is made with respect to
14 any record, the agency shall supply to the Board a
15 summary or extract of such record unless the reasons
16 specified in the preceding sentence preclude such a
17 summary or extract.

18 (c) If the Board determines that an agency record, or a
19 summary or extract of a record, made available to the Board
20 under subsection (b) is relevant and material to the grievance,
21 the agency concerned shall make such record, summary, or
22 extract, as the case may be, available to the grievant.

23 (d) In considering a grievance, the Board may take into
24 account the fact that the grievant or the Board was denied

1 access to an agency record which the Board determines is or
2 may be relevant and material to the grievance.

3 (e) The grievant in any case decided by the Board shall
4 have access to the record of the proceedings and the decision
5 of the Board.

6 SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—

7 (a) A grievant may not file a grievance with the Board if the
8 grievant has formally requested, prior to filing a grievance,
9 that the matter or matters which are the basis of the griev-
10 ance be considered or resolved and relief be provided under
11 another provision of law, regulation, or Executive order,
12 other than under section 1206 of title 5, United States Code,
13 and the matter has been carried to final decision under such
14 provision on its merits or is still under consideration.

15 (b) If a grievant is not prohibited from filing a grievance
16 under subsection (a), the grievant may file with the Board a
17 grievance which is also eligible for consideration, resolution,
18 and relief under chapter 12 of title 5, United States Code, or
19 a regulation or Executive order other than under this chap-
20 ter. An election of remedies under this section shall be final
21 upon the acceptance of jurisdiction by the Board.

22 SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party
23 may obtain judicial review of a final action of the Secretary
24 or the Board on any grievance in the district courts of the
25 United States in accordance with the standards set forth in

1 chapter 7 of title 5, United States Code. Section 706 of title
2 5, United States Code, shall apply without limitation or
3 exception.

4 TITLE II—TRANSITION, AMENDMENTS TO OTHER
5 LAWS, AND MISCELLANEOUS PROVISIONS

6 CHAPTER 1—TRANSITION

7 SEC. 2101. PAY AND BENEFITS PENDING CONVER-
8 SION.—Except as provided in section 2104(b), until
9 converted under the provisions of this chapter, individuals
10 who are in the Foreign Service immediately before the effec-
11 tive date of this Act and who could be converted under sec-
12 tion 2102 or 2103 shall be treated for purposes of salary,
13 allowances, and all other matters as if they had been convert-
14 ed under section 2102 or 2103, as the case may be, on the
15 effective date of this Act.

16 SEC. 2102. CONVERSION TO THE FOREIGN SERVICE
17 SCHEDULE.—(a) Not later than 120 days after the effective
18 date of this Act, the Secretary shall, in accordance with sec-
19 tion 2106, convert to the appropriate class in the Foreign
20 Service Schedule established under section 403 of this Act
21 those individuals in the Foreign Service who are serving im-
22 mediately before the effective date of this Act under appoint-
23 ments at or below class 3 of the schedule established under
24 section 412 or 414 of the Foreign Service Act of 1946, or at

1 any class in the schedule established under section 415 of
2 such Act, as—

3 (1) Foreign Service officers, or

4 (2) Foreign Service Reserve officers with limited
5 or unlimited tenure, and Foreign Service staff officers
6 or employees, who the Secretary determines are avail-
7 able for worldwide assignment.

8 (b) Not later than 3 years after the effective date of this
9 Act, Foreign Service Reserve officers and staff officers and
10 employees who the Secretary determines under subsection
11 (a)(2) are not available for worldwide assignment shall also be
12 converted, in accordance with section 2106, to the appropri-
13 ate class in the Foreign Service Schedule established under
14 section 403 if—

15 (1) the Secretary certifies that there is a need for
16 their services in the Foreign Service; and

17 (2) they agree in writing to accept availability for
18 worldwide assignment as a condition of continued em-
19 ployment.

20 SEC. 2103. CONVERSION TO THE SENIOR FOREIGN
21 SERVICE.—(a) Foreign Service officers and Foreign Service
22 Reserve officers with limited or unlimited tenure who, imme-
23 diately before the effective date of this Act, are serving under
24 appointments at class 2 or a higher class of the schedule
25 established under section 412 or 414 of the Foreign Service

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1 Act of 1946 may at any time within 120 days after such date
2 submit to the Secretary a written request for appointment to
3 the Senior Foreign Service.

4 (b) Except as provided in subsection (d), if a request is
5 submitted under subsection (a) by a Foreign Service Reserve
6 officer with limited tenure, the Secretary shall grant to such
7 officer a limited appointment to the Senior Foreign Service in
8 the appropriate class established under section 402 of this
9 Act.

10 (c) If a request is submitted under subsection (a) by a
11 Foreign Service officer or, except as provided in subsection
12 (d), a Foreign Service Reserve officer with unlimited tenure,
13 the Secretary shall recommend to the President a career ap-
14 pointment of such officer, by and with the advice and consent
15 of the Senate, to the Senior Foreign Service in the appropri-
16 ate class established under section 402 of this Act.

17 (d) If the Secretary determines that a Foreign Service
18 Reserve officer with limited or unlimited tenure who submits
19 a request under subsection (a) is not available for worldwide
20 assignment, an appointment under subsection (b) or a recom-
21 mendation for appointment under subsection (c) shall be made
22 only if—

23 (1) the Secretary certifies that there is a need for
24 the services of such officer in the Senior Foreign Serv-
25 ice; and

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1 (2) such officer agrees in writing to accept avail-
2 ability for worldwide assignment as a condition of con-
3 tinued employment.

4 (e) If a Foreign Service officer or a Foreign Service
5 Reserve officer who is eligible to submit a request under sub-
6 section (a) submits a written request for appointment to the
7 Senior Foreign Service to the Secretary more than 120 days
8 after the effective date of this Act and before the end of the
9 3-year period beginning on such effective date, the Secretary
10 (in the case of a Foreign Service Reserve officer with limited
11 tenure) may grant a limited appointment to, or (in the case of
12 a Foreign Service officer or Foreign Service Reserve officer
13 with unlimited tenure) may recommend to the President a
14 career appointment of, the requesting officer to the appropri-
15 ate class established under section 402 of this Act, subject to
16 the conditions specified in subsection (d) and such other con-
17 ditions as the Secretary may prescribe consistent with the
18 provisions of chapter 6 of title I of this Act relating to promo-
19 tion into the Senior Foreign Service.

20 (f) Any officer of the Foreign Service who is eligible to
21 submit a request under subsection (a) and—

22 (1) who does not submit a request under subsec-
23 tion (a), or

24 (2) who submits such a request more than 120
25 days after the effective date of this Act and is not ap-

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1 pointed to the Senior Foreign Service for any reason
2 other than failure to meet the conditions specified in
3 subsection (d),
4 may not remain in the Foreign Service for more than 3 years
5 after the effective date of this Act. During such period, the
6 officer shall be subject to the provisions of title I of this Act
7 applicable to members of the Senior Foreign Service, except
8 that such officer shall not be eligible to compete for perform-
9 ance pay under section 405, and shall not be eligible for a
10 limited career extension as described in section 607(b). Upon
11 separation from the Service, any such officer who is a partici-
12 pant in the Foreign Service Retirement and Disability
13 System shall be entitled to retirement benefits determined in
14 accordance with chapter 8 of title I of this Act.

15 SEC. 2104. CONVERSION FROM THE FOREIGN SERV-
16 ICE.—(a) In the case of any individual in the Foreign Service
17 who, immediately before the effective date of this Act, is
18 serving under an appointment described in section 2102(a) or
19 2103(a) and who is not converted under section 2102 or sec-
20 tion 2103 because such individual does not meet the condi-
21 tions specified in section 2102(b) or 2103(d), the Secretary
22 shall, not later than 3 years after the effective date of this
23 Act, provide that—

1 (1) the position such individual holds shall be sub-
2 ject to chapter 51 and subchapter III of chapter 53 of
3 title 5, United States Code;

4 (2) such individual shall be appointed to such posi-
5 tion without competitive examination; and

6 (3) such position shall be considered to be in the
7 competitive service so long as the individual continues
8 to hold that position;

9 except that any such individual who meets the eligibility re-
10 quirements for the Senior Executive Service and who elects
11 to join that Service shall be converted by the Secretary to the
12 Senior Executive Service in the appropriate rate of basic pay
13 established under section 5382 of title 5, United States Code.

14 (b)(1) In the case of individuals in the Foreign Service in
15 the International Communication Agency who immediately
16 before the date of enactment of this Act are covered by a
17 collective bargaining agreement between the Agency and the
18 exclusive representative of those individuals, the 3-year
19 period referred to in subsection (a) shall begin on July 1,
20 1981. Prior to that date, any individual in the Foreign Serv-
21 ice exempted from conversion by this subsection may elect to
22 remain in the Foreign Service and, notwithstanding any
23 other provision of law, the status, promotion, class, and
24 tenure of such individuals shall continue to be governed by
25 the Foreign Service Act of 1946 and Public Law 90-494 (as

1 those Acts were in effect immediately before the effective
2 date of this Act). This Act (except sections 402, 403, 404,
3 and 405) shall also apply to such individuals, and such indi-
4 viduals shall be considered members of the Foreign Service
5 for purposes of sections 103, 406, 501, 502, 503, 504, 610,
6 and 803 of this Act.

7 (2) The President shall prescribe salary rates for the
8 individuals in the Foreign Service who are temporarily
9 excepted from conversion under this subsection in accordance
10 with the salary classes established under sections 414 and
11 415 of the Foreign Service Act of 1946. Salary rates for
12 such individuals shall be adjusted at the same time and to the
13 same extent as rates of basic pay are adjusted for the Gen-
14 eral Schedule.

15 SEC. 2105. CONVERSION OF CERTAIN POSITIONS IN
16 THE DEPARTMENT OF AGRICULTURE.—(a) Not later than
17 15 days after the effective date of this Act, the Secretary of
18 Agriculture shall—

19 (1) designate and classify under section 501 of
20 this Act those positions in the Foreign Agricultural
21 Service under the General Schedule described in sec-
22 tion 5332 of title 5, United States Code, which the
23 Secretary of Agriculture determines are to be occupied
24 by career members of the Foreign Service, and

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1 (2) provide written notice to individuals holding
2 those positions of such designation and classification of
3 the personnel category under section 103 which will
4 apply to such individual.

5 (b) Each employee serving in a position at the time it is
6 designated under subsection (a) shall, not later than 120 days
7 after notice of such designation, elect—

8 (1) to accept conversion to the Foreign Service, in
9 which case such employee shall be converted in ac-
10 cordance with the provisions of subsection (c); or

11 (2) to decline conversion to the Foreign Service
12 and have the provisions of subsection (d) apply.

13 (c)(1) The Secretary of Agriculture shall recommend to
14 the President for appointment to the appropriate class (as
15 determined under paragraph (2)), by and with the advice and
16 consent of the Senate, those employees who elect conversion
17 under subsection (a)(1).

18 (2) The Secretary of Agriculture shall appoint as For-
19 eign Service personnel those employees who elect to accept
20 conversion and who are not eligible for appointment under
21 paragraph (1).

22 (d) Any employee who declines conversion under sub-
23 section (b)(2) shall for so long as that employee continues to
24 hold the designated position be deemed to be a member of the
25 Foreign Service for purposes of allowances, differentials, and

1 similar benefits (as determined by the Secretary of
2 Agriculture).

3 SEC. 2106. PRESERVATION OF STATUS AND BENE-
4 FITS.—(a)(1) Subject to paragraph (2), every individual who
5 is converted under this chapter shall be converted to the class
6 or grade and pay rate that most closely corresponds to the
7 class or grade and step at which the individual was serving
8 immediately before conversion. No conversion under this
9 chapter shall cause any individual to incur a reduction in his
10 or her class, grade, or basic rate of salary.

11 (2)(A) Conversion under section 2102 of any individual
12 in the Foreign Service to the Foreign Service Schedule shall
13 in each case be to a class determined on the basis of the rank
14 held immediately before the effective date of this Act, in
15 accordance with the following table:

If the rank held immediately before the effective date is:	The individual shall be converted to the following class:
FSO-3, FSR-3, FSRU-3, or FSS-1	FS-1
FSO-4, FSR-4, FSRU-4, or FSS-2	FS-2
FSO-5, FSR-5, FSRU-5, or FSS-3	FS-3
FSO-6, FSR-6, FSRU-6, or FSS-4	FS-5
FSO-7, FSR-7, FSRU-7, or FSS-5	FS-6
FSO-8, FSR-8, FSRU-8, or FSS-6	FS-7
FSS-7	FS-8
FSS-8	FS-9
FSS-9	FS-10
FSS-10	FS-10

16 (B) Each individual converted to a class under subpara-
17 graph (A) shall be placed in the salary step in that class
18 which is the numerical equivalent of the step that individual
19 was in immediately before such conversion unless the individ-

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1 ual is entitled to be in a higher step under the provisions of
2 paragraph (1).

3 ~~(C)~~ Any individual converted under this subsection
4 whose basic rate of salary immediately before conversion
5 exceeds the salary rate for the step to which he or she is
6 converted shall be entitled to continue to receive salary at
7 the former rate at time of conversion. Such salary rate shall
8 be increased by 50 percent of the amount of each increase in
9 the individual's new salary step until the rate is equal to the
10 rate which would be applicable but for this paragraph.

11 ~~(D)~~ (C) Not later than 6 months after the effective date
12 of this Act, each career member of the Foreign Service hold-
13 ing the rank of FSO-6, FSR-6, FSRU-6, or FSS-4 imme-
14 diately before such effective date shall be evaluated and con-
15 sidered for promotion to salary class FS-4 by a Foreign
16 Service selection board in accordance with chapter 6 of title I
17 of this Act.

18 (3) An individual converted under section 2104 to a po-
19 sition in the competitive service shall be entitled to have that
20 position, or any other position to which the individual is sub-
21 sequently assigned (other than at the request of the individu-
22 al), be considered for all purposes as at the grade which cor-
23 responds to the class in which the individual served immedi-
24 ately before conversion so long as the individual continues to
25 hold that position.

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1 (b)(1) Any participant in the Foreign Service Retirement
2 and Disability System who would, but for this paragraph,
3 participate in the Civil Service Retirement and Disability
4 System by virtue of conversion under this chapter shall
5 remain a participant in the Foreign Service Retirement and
6 Disability System for 120 days after participation in the For-
7 eign Service Retirement and Disability System would other-
8 wise cease. During such 120-day period, the individual may
9 elect in writing to continue to participate in the Foreign
10 Service Retirement and Disability System instead of the Civil
11 Service Retirement and Disability System so long as he or
12 she is employed in an agency which is authorized to utilize
13 the Foreign Service personnel system. If such an election is
14 not made, the individual shall then be covered by the Civil
15 Service Retirement and Disability System and contributions
16 made by the participant to the Foreign Service Retirement
17 and Disability Fund shall be transferred to the Civil Service
18 Retirement and Disability Fund.

19 (2) Any Foreign Service Reserve officer with limited
20 tenure who has reemployment rights to a personnel category
21 in the Foreign Service in which he or she would be a partici-
22 pant in the Foreign Service Retirement and Disability
23 System and who would, but for this paragraph, continue to
24 participate in the Civil Service Retirement and Disability
25 System by virtue of conversion under section 2104 may

1 elect, during the 120-day period beginning on the date of
2 such conversion, to become a participant in the Foreign Serv-
3 ice Retirement and Disability System so long as he or she is
4 employed in an agency which is authorized to utilize the For-
5 eign Service personnel system. If such an election is made,
6 the individual shall be transferred to the Foreign Service Re-
7 tirement and Disability System and contributions made by
8 that individual to the Civil Service Retirement and Disability
9 Fund shall be transferred to the Foreign Service Retirement
10 and Disability Fund.

11 (c) Individuals who are converted under this chapter
12 shall be converted to the type of appointment which corre-
13 sponds most closely in tenure to the type of appointment
14 under which they were serving immediately prior to such
15 conversion, except that this chapter shall not operate to
16 extend the duration of any limited appointment or previously
17 applicable time in class.

18 (d) Any individual who on the effective date of this Act
19 is serving—

20 (1) under an appointment in the Foreign Service,

21 or

22 (2) in any other office or position continued by
23 this Act,

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1 may continue to serve under such appointment, subject to the
2 provisions of this Act, and need not be reappointed by virtue
3 of the enactment of this Act.

4 (e) Any individual in the Foreign Service—

5 (1) who is serving under a career appointment on
6 the date of enactment of this Act, and

7 (2) who was not subject to section 633(a)(2) of the
8 Foreign Service Act of 1946 immediately before the
9 effective date of this Act,

10 may not be retired under section 608 of this Act until 10
11 years after the effective date of this Act or when such indi-
12 vidual first becomes eligible for an immediate annuity under
13 chapter 8 of title I of this Act, whichever occurs first.

14 SEC. 2107. REGULATIONS.—Under the direction of the
15 President, the Secretary shall prescribe regulations for the
16 implementation of this chapter.

17 SEC. 2108. AUTHORITY OF OTHER AGENCIES.—The
18 heads of agencies other than the Department of State which
19 utilize the Foreign Service personnel system shall perform
20 functions under this chapter in accordance with regulations
21 prescribed by the Secretary of State under section 2107.
22 Such agency heads shall consult with the Secretary of State
23 in the exercise of such functions.

1. Introduction

1 for its restoration, shall be deposited in the Treasury of the
2 United States. Such funds are hereby appropriated and shall
3 be held in trust by the Secretary of the Treasury for the
4 benefit of the Department of State (including the Foreign
5 Service). The Secretary of the Treasury may invest and rein-
6 vest such funds in interest-bearing obligations of the United
7 States or in obligations guaranteed as to both principal and
8 interest by the United States. Such funds and the income
9 from such investments shall be available for expenditure in
10 the operation of the Department of State (including the For-
11 eign Service) and the performance of its functions, subject to
12 the same examination and audit as is provided for appropri-
13 ations made for the Foreign Service by the Congress.

14 “(c) The evidences of any unconditional gift of intangi-
15 ble personal property (other than money) accepted under sub-
16 section (a), shall be deposited with the Secretary of the
17 Treasury who may hold or liquidate them, except that they
18 shall be liquidated upon the request of the Secretary of State
19 whenever necessary to meet payments required in the oper-
20 ation of the Department of State (including the Foreign Serv-
21 ice) or the performance of its functions.

22 “(d)(1) The Secretary of State shall hold any real prop-
23 erty or any tangible personal property accepted uncondition-
24 ally pursuant to subsection (a) and shall either use such prop-
25 erty for the operation of the Department of State (including

1 the Foreign Service) and the performance of its functions or
2 lease or hire such property, except that any such property
3 not required for the operation of the Department of State
4 (including the Foreign Service) or the performance of its
5 functions may be liquidated by the Secretary of State when-
6 ever in the judgment of the Secretary of State the purposes
7 of the gift will be served thereby. The Secretary of State may
8 insure any property held under this subsection. Except as
9 provided in paragraph (2), the Secretary shall deposit the
10 income from any property held under this subsection with the
11 Secretary of the Treasury as provided in subsection (b).

12 “(2) The income from any real property or tangible per-
13 sonal property held under this subsection shall be available
14 for expenditure at the discretion of the Secretary of State for
15 the maintenance, preservation, or repair and insurance of
16 such property and any proceeds from insurance may be used
17 to restore the property insured.

18 “(e) For the purpose of Federal income, estate, and gift
19 taxes, any gift, devise, or bequest accepted under this section
20 shall be deemed to be a gift, devise, or bequest to and for the
21 use of the United States.

22 “(f) The authorities available to the Secretary of State
23 under this section with respect to the Department of State
24 shall be available to the Director of the International Com-
25 munication Agency and the Director of the United States

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1 International Development Cooperation Agency with respect
2 to their respective agencies.

3 "SEC. 26. (a) The Secretary of State may, without
4 regard to section 3106 of title 5, United States Code, author-
5 ize a principal officer of the Foreign Service to procure legal
6 services whenever such services are required for the protec-
7 tion of the interests of the Government or to enable a
8 member of the Service to carry on the member's work
9 efficiently.

10 "(b) The authority available to the Secretary of State
11 under this section shall be available to the Director of the
12 International Communication Agency and the Director of the
13 United States International Development Cooperation
14 Agency with respect to their respective agencies.

15 "SEC. 27. (a) In order to expand employment opportu-
16 nities for family members of United States Government per-
17 sonnel assigned abroad, the Secretary of State shall seek to
18 conclude such bilateral and multilateral agreements as will
19 facilitate the employment of such family members in foreign
20 economies.

21 "(b) Any member of a family of a member of the For-
22 eign Service may accept gainful employment in a foreign
23 country unless such employment—

24 "(1) would violate any law of such country or of
25 the United States; or

1 “(2) could, as certified in writing by the United
2 States chief of mission to such country, damage the in-
3 terests of the United States.

4 “SEC. 28. The Secretary of State may authorize the
5 principal officer of a Foreign Service post to provide for the
6 use of Government owned or leased vehicles located at that
7 post for transportation of United States Government employ-
8 ees and their families when public transportation is unsafe or
9 not available or when such use is advantageous to the
10 Government.

11 “SEC. 29. Whenever the Secretary of State determines
12 that educational facilities are not available, or that existing
13 educational facilities are inadequate, to meet the needs of
14 children of United States citizens stationed outside the
15 United States who are engaged in carrying out Government
16 activities, the Secretary may, in such manner as he deems
17 appropriate and under such regulations as he may prescribe,
18 establish, operate, and maintain primary schools, and school
19 dormitories and related educational facilities for primary and
20 secondary schools, outside the United States, make grants of
21 funds for such purposes, or otherwise provide for such educa-
22 tional facilities. The authorities of the Foreign Service Build-
23 ings Act, 1926, and of paragraphs (h) and (i) of section 3 of
24 this Act, may be utilized by the Secretary in providing assist-
25 ance for educational facilities. Such assistance may include

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1 hiring, transporting, and payment of teachers and other nec-
2 essary personnel.

3 "SEC. 30. (a) The remedy—

4 "(1) against the United States provided by sec-
5 tions 1346(b) and 2672 of title 28, United States Code,
6 or

7 "(2) through proceedings for compensation or
8 other benefits from the United States as provided by
9 any other law, where the availability of such benefits
10 precludes a remedy under such sections,

11 for damages for personal injury, including death, allegedly
12 arising from malpractice or negligence of a physician, dentist,
13 nurse, pharmacist, or paramedical (including medical and
14 dental assistants and technicians, nursing assistants, and
15 therapists) or other supporting personnel of the Department
16 of State in furnishing medical care or related services, includ-
17 ing the conducting of clinical studies or investigations, while
18 in the exercise of his or her duties in or for the Department of
19 State or any other Federal department, agency, or instru-
20 mentality shall be exclusive of any other civil action or pro-
21 ceeding by reason of the same subject matter against such
22 physician, dentist, nurse, pharmacist, or paramedical or other
23 supporting personnel (or his or her estate) whose act or omis-
24 sion gave rise to such claim.

1 “(b) The United States Government shall defend any
2 civil action or proceeding brought in any court against any
3 person referred to in subsection (a) of this section (or his or
4 her estate) for any such damage or injury. Any such person
5 against whom such civil action or proceeding is brought shall
6 deliver, within such time after date of service or knowledge
7 of service as may be determined by the Attorney General, all
8 process served upon him or her or an attested true copy
9 thereof to whomever was designated by the Secretary to re-
10 ceive such papers. Such person shall promptly furnish copies
11 of the pleading and process therein to the United States at-
12 torney for the district embracing the place wherein the pro-
13 ceeding is brought, to the Attorney General, and to the
14 Secretary.

15 “(c) Upon a certification by the Attorney General that
16 the defendant was acting within the scope of his or her em-
17 ployment in or for the Department of State or any other Fed-
18 eral department, agency, or instrumentality at the time of the
19 incident out of which the suit arose, any such civil action or
20 proceeding commenced in a State court shall be removed
21 without bond at any time before trial by the Attorney Gener-
22 al to the district court of the United States of the district and
23 division embracing the place wherein it is pending and the
24 proceeding deemed a tort action brought against the United
25 States under the provisions of title 28, United States Code,

1 and all references thereto. Should a United States district
2 court determine on a hearing on a motion to remand held
3 before a trial on the merits that the case so removed is one in
4 which a remedy by suit within the meaning of subsection (a)
5 of this section is not available against the United States, the
6 case shall be remanded to the State court except that where
7 such remedy is precluded because of the availability of a
8 remedy through proceedings for compensation or other bene-
9 fits from the United States as provided by any other law, the
10 case shall be dismissed, but in that event, the running of any
11 limitation of time for commencing, or filing an application or
12 claim in, such proceedings for compensation or other benefits
13 shall be deemed to have been suspended during the pendency
14 of the civil action or proceeding under this section.

15 “(d) The Attorney General may compromise or settle
16 any claim asserted in such civil action or proceeding in the
17 manner provided in section 2677 of title 28, the United
18 States Code, and with the same effect.

19 “(e) For purposes of this section, the provisions of sec-
20 tion 2680(h) of title 28, United States Code, shall not apply
21 to any tort enumerated therein arising out of negligence in
22 the furnishing of medical care or related services, including
23 the conducting of clinical studies or investigations.

24 “(f) The Secretary may, to the extent he deems appro-
25 priate, hold harmless or provide liability insurance for any

1 person to whom the immunity provisions of subsection (a) of
2 this section apply, for damages for personal injury, including
3 death, negligently caused by any such person while acting
4 within the scope of his or her office or employment and as a
5 result of the furnishing of medical care or related services,
6 including the conducting of clinical studies or investigations,
7 if such person is assigned to a foreign area or detailed for
8 service with other than a Federal agency or institution, or if
9 the circumstances are such as are likely to preclude the rem-
10 edies of third persons against the United States provided by
11 sections 1346(b) and 2672 of title 28, United States Code,
12 for such damage or injury.

13 “(g) For purposes of this section, any medical care or
14 related service covered by this section and performed abroad
15 by a covered person at the direction or with the approval of
16 the United States chief of mission or other principal repre-
17 sentative of the United States in the area shall be deemed to
18 be within the scope of employment of the individual perform-
19 ing the service.

20 “SEC. 31. (a) The Secretary of State may authorize and
21 assist in the establishment, maintenance, and operation by
22 civilian officers and employees of the Government of non-
23 Government-operated services and facilities at posts abroad,
24 including the furnishing of space, utilities, and properties
25 owned or leased by the Government for use by its diplomatic,

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1 consular, and other missions and posts abroad. The provi-
2 sions of the Foreign Service Buildings Act, 1926 (22 U.S.C.
3 292-300) and section 13 of this Act may be utilized by the
4 Secretary in providing such assistance.

5 “(b) The Secretary may establish and maintain emer-
6 gency commissary or mess services in places abroad where,
7 in the judgment of the Secretary, such services are necessary
8 temporarily to insure the effective and efficient performance
9 of official duties and responsibilities. Reimbursements inci-
10 dent to the maintenance and operation of commissary or
11 mess service under this subsection shall be at not less than
12 cost as determined by the Secretary and shall be used as
13 working funds, except that an amount equal to the amount
14 expended for such services shall be covered into the Treasury
15 as miscellaneous receipts.

16 “(c) Services and facilities established under this section
17 shall be made available, insofar as practicable, to officers and
18 employees of all agencies and their dependents who are sta-
19 tioned in the locality abroad. Such services and facilities shall
20 not be established in localities where another agency oper-
21 ates similar services or facilities unless the Secretary deter-
22 mines that additional services or facilities are necessary.
23 Other agencies shall to the extent practicable avoid duplicat-
24 ing the facilities and services provided or assisted by the Sec-
25 retary under this section.

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1 “(d) Charges at any post abroad for a service or facility
2 provided, authorized or assisted under this section shall be at
3 the same rate for all civilian personnel of the Government
4 serviced thereby, and all charges for supplies furnished to
5 such a service or facility abroad by any agency shall be at the
6 same rate as that charged by the furnishing agency to its
7 comparable civilian services and facilities.

8 “SEC. 32. The Secretary of State may pay, without
9 regard to section 5702 of title 5, United States Code, subsist-
10 ence expenses of (1) security officers of the Department of
11 State who are on authorized protective missions, and (2)
12 members of the Foreign Service and employees of the De-
13 partment who are required to spend extraordinary amounts of
14 time in travel status.

15 “SEC. 33. This Act may be cited as the ‘State Depart-
16 ment Basic Authorities Act of 1956’.”.

17 (b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is
18 amended by striking out “Foreign Service Act of 1946, as
19 amended” and inserting in lieu thereof “Foreign Service Act
20 of 1980”.

21 SEC. 2202. PEACE CORPS ACT.—(a) Section 5 of the
22 Peace Corps Act (22 U.S.C. 2504) is amended—

23 (1) in subsection (f)(1)—

24 (A) in subparagraph (A) by striking out “sec-
25 tion 852(a)(1) of the Foreign Service Act of 1946,

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1 as amended (22 U.S.C. 1092(a)(1)),” and inserting
2 in lieu thereof “section 816(a) of the Foreign
3 Service Act of 1980”, and

4 (B) in subparagraph (B) by striking out “For-
5 eign Service Act of 1946” and inserting in lieu
6 thereof “Foreign Service Act of 1980”; and
7 (2) in subsection (h)—

8 (A) by striking out “section 1091 of the For-
9 eign Service Act of 1946” and inserting in lieu
10 thereof “section 30 of the State Department
11 Basic Authorities Act of 1956”, and

12 (B) by striking out “Director of ACTION”
13 and inserting in lieu thereof “President”.

14 (b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C.
15 2506(a)) is amended—

16 (A) in paragraph (1)—

17 (i) by striking out “, who shall receive com-
18 pensation at any of the rates provided for persons
19 appointed to the Foreign Service Reserve and
20 Staff under the Foreign Service Act of 1946, as
21 amended (22 U.S.C. 801 et seq.)” and inserting
22 in lieu thereof “which are not authorized to utilize
23 the Foreign Service personnel system, who shall
24 receive compensation at any of the rates estab-

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1 lished under section 402 or 403 of the Foreign
2 Service Act of 1980”;

3 (ii) by striking out “section 528” and insert-
4 ing in lieu thereof “section 310”; and

5 (iii) by striking out “Reserve” the last place
6 it appears and all that follows and inserting in
7 lieu thereof a period; and

8 (B) by amending paragraph (2) to read as follows:

9 “(2) ~~¶In order to employ such individuals as may be~~
10 ~~necessary to perform duties that reasonably require availabil-~~
11 ~~ity for worldwide assignment, the~~— The President may uti-
12 lize such authority contained in the Foreign Service Act of
13 1980 relating to members of the Foreign Service and other
14 United States Government officers and employees as the
15 President deems necessary to carry out functions under this
16 Act, except that—

17 “(A) no Foreign Service appointment or assign-
18 ment under this paragraph shall be for a period of
19 more than five years unless the Director of the Peace
20 Corps, under special circumstances, personally ap-
21 proves an extension of not more than one year on an
22 individual basis; and

23 “(B) no individual whose Foreign Service appoint-
24 ment or assignment under this paragraph has been ter-
25 minated shall be reappointed or reassigned under this

1 paragraph before the expiration of a period of time
2 equal to the preceding tour of duty of that individual.
3 Such provisions of the Foreign Service Act of 1980 as the
4 President deems appropriate shall apply to individuals ap-
5 pointed or assigned under this paragraph, including in all
6 cases, the provisions of section 310 of that Act, except that
7 (i) the President may by regulation make exceptions to the
8 application of section 310 in cases in which the period of the
9 appointment or assignment exceeds thirty months ~~and~~,
10 (ii) members of the Foreign Service appointed or assigned
11 pursuant to this paragraph shall receive within-class salary
12 increases in accordance with such regulations as the Presi-
13 dent may prescribe, **and (iii) under such regulations**
14 **as the President may prescribe, individuals who**
15 **are to perform duties of a more routine nature**
16 **than are generally performed by members of the**
17 **Foreign Service assigned to the lowest class of the**
18 **Foreign Service Schedule may be appointed to an**
19 **unenumerated class ranking below the lowest**
20 **class of the Foreign Service Schedule and be paid**
21 **basic compensation at rates lower than those of**
22 **the lowest class, except that such rates may be no**
23 **less than the then applicable minimum wage rate**
24 **specified in section 6(a)(1) of the Fair Labor**
25 **Standards Act of 1938 (29 U.S.C. 206(a)(1)).”.**

1 (2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C.
2 2506(a)(4)) is amended—

3 (A) by striking out “Until” and all that follows
4 through “paragraph or” and inserting in lieu thereof
5 “An individual who has received an appointment or as-
6 signment in the Foreign Service under this subsection
7 may, not later than September 30, 1982, or three
8 years”;

9 (B) by striking out “such person” and inserting in
10 lieu thereof “such individual”; and

11 (C) by striking out “substantially continuous
12 basis” and inserting in lieu thereof “continuous basis
13 without a break in service of more than three days”.

14 (c) Section 13(b) of the Peace Corps Act (22 U.S.C.
15 2512(b)) is amended by striking out “section 872 of the For-
16 eign Service Act of 1946, as amended” and inserting in lieu
17 thereof “section 824 of the Foreign Service Act of 1980,”.

18 (d) Section 14(b) of the Peace Corps Act (22 U.S.C.
19 2513(b)) is amended by striking out “section 901 of the For-
20 eign Service Act of 1946 (22 U.S.C. 1131)” and inserting in
21 lieu thereof “section 905 of the Foreign Service Act of
22 1980”.

23 (e) Section 15(a) of the Peace Corps Act (22 U.S.C.
24 2514) is amended by striking out “Foreign Service person-

1 nel" and inserting in lieu thereof "members of the Foreign
2 Service".

3 SEC. 2203. FOREIGN ASSISTANCE ACT.—(a) Section
4 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C.
5 2385(d)) is amended to read as follows:

6 "(d) For the purpose of performing functions under this
7 Act outside the United States, the President may employ or
8 assign individuals, or may authorize the employment or as-
9 signment of officers or employees by agencies of the United
10 States Government which are not authorized to utilize the
11 Foreign Service personnel system, who shall receive compen-
12 sation at any of the rates provided for under section 402 or
13 section 403 of the Foreign Service Act of 1980, together
14 with allowances and benefits under that Act. Individuals so
15 employed or assigned shall be entitled, except to the extent
16 that the President may specify otherwise in cases in which
17 the period of employment or assignment exceeds thirty
18 months, to the same benefits as are provided by section 310
19 of that Act for individuals appointed to the Foreign
20 Service."

21 (b) Section 629(b) of the Foreign Assistance Act of
22 1961 (22 U.S.C. 2389(b)) is amended by striking out "sec-
23 tion 901 of the Foreign Service Act of 1946, as amended (22
24 U.S.C. 1131)" and inserting in lieu thereof "section 905 of
25 the Foreign Service Act of 1980".

1 (c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is
2 amended by amending the second sentence to read as follows:
3 "Such chief shall be entitled to receive such compensation
4 and allowances as are authorized by the Foreign Service Act
5 of 1980, not to exceed those authorized for a chief of mission
6 (as defined in section 102(a)(3) of that Act), as the President
7 shall determine to be appropriate."

8 (d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is
9 amended by amending the second sentence to read as follows:
10 "Such person may receive such compensation and allowances
11 as are authorized by the Foreign Service Act of 1980, not to
12 exceed those authorized for a chief of mission (as defined in
13 section 102(a)(3) of that Act), as the President shall deter-
14 mine to be appropriate."

15 SEC. 2204. ARMS CONTROL AND DISARMAMENT
16 ACT.—(a) Section 42 of the Arms Control and Disarmament
17 Act (22 U.S.C. 2582) is amended to read as follows:

18 "FOREIGN SERVICE PERSONNEL

19 "SEC. 42. (a) The Secretary of State may authorize the
20 Director to exercise, with respect to members of the Foreign
21 Service appointed or employed for the Agency—

22 "(1) the authority available to the Secretary under
23 the Foreign Service Act of 1980, and

24 "(2) the authority available to the Secretary under
25 any other provisions of law pertaining specifically or

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1 applicable generally to members of the Foreign
2 Service.

3 “(b) Limited appointments of members of the Foreign
4 Service for the Agency may be extended or renewed, not-
5 withstanding section 309 of the Foreign Service Act of 1980,
6 so long as the service of the individual under such appoint-
7 ment does not exceed ten consecutive years without a break
8 in service of at least one year.”.

9 (b) Section 48 of the Arms Control and Disarmament
10 Act (22 U.S.C. 2588) is amended by striking out “Foreign
11 Service Act of 1946, as amended” and inserting in lieu
12 thereof “Foreign Service Act of 1980”.

13 SEC. 2205. REPEALED PROVISIONS.—The following
14 are repealed:

15 (1) The Act entitled “An Act to improve,
16 strengthen, and expand the Foreign Service of the
17 United States and to consolidate and revise the laws
18 relating to its administration”, approved August 13,
19 1946, titles I through X of such Act being the Foreign
20 Service Act of 1946 (22 U.S.C. 801–810, 816, 817,
21 821, 826, 827, 841–843, 846, 861, 866–873, 876,
22 877, 881, 882, 886, 889, 890, 896, 900, 901, 902,
23 906–915, 921–924, 926–928, 936–939, 946, 947,
24 951, 961–966, 968, 981, 986, 987, 991–996,
25 1001–1009, 1016, 1017, 1021, 1022, 1026–1028,

1 1031, 1036, 1037-1037c, 1041-1048, 1061-1065,
2 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091,
3 1093, 1095, 1101, 1103-1106, 1111, 1112, 1116,
4 1121, 1131, 1136-1138a, 1139, 1148-1151, and
5 1156-1160).

6 (2) Sections 401 and 413 of the Foreign Relations
7 Authorization Act, Fiscal Year 1979 (92 Stat. 981,
8 986).

9 (3) Section 413 of the Foreign Relations Authori-
10 zation Act, Fiscal Year 1978 (91 Stat. 857).

11 (4) Sections 117, 120, and 522 of the Foreign
12 Relations Authorization Act, Fiscal Year 1977 (90
13 Stat. 827, 829, 846).

14 (5) Section 6 of the Department of State Appro-
15 priations Authorization Act of 1973 (87 Stat. 452).

16 (6) The Act entitled "An Act to promote the for-
17 eign policy of the United States by strengthening and
18 improving the Foreign Service personnel system of the
19 International Communication Agency through estab-
20 lishment of a Foreign Service Information Officer
21 Corps", approved August 20, 1968 (22 U.S.C.
22 929-932, 1221-1234).

23 (7) Section 104(c) of the Mutual Educational and
24 Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

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1 (8) Subsections (e), (g), (j), and (k) of section 625
2 of the Foreign Assistance Act of 1961 (22 U.S.C.
3 2385 (e), (g), (j), and (k)), except that the repeal of
4 subsection (k) shall not become effective until
5 January 1, 1982.

6 (9) Section 7(b) of the Peace Corps Act (22
7 U.S.C. 2506(b)).

8 (10) Sections 14 and 16 of the Act entitled "An
9 Act to provide certain basic authority for the Depart-
10 ment of State", approved August 1, 1956 (22 U.S.C.
11 2679a, 2680a).

12 (11) Section 124(a)(2) of the International Devel-
13 opment and Food Assistance Act of 1977 (91 Stat.
14 542).

15 (12) The Act entitled "An Act to make certain
16 increases in the annuities of annuitants under the
17 Foreign Service retirement and disability system", ap-
18 proved May 21, 1952 (22 U.S.C. 1077, 1078).

19 (13) The Act entitled "An Act to make certain
20 increases in the annuities of annuitants under the
21 Foreign Service retirement and disability system", ap-
22 proved May 1, 1956 (22 U.S.C. 1079-1079f).

23 (14) The Act entitled "An Act to provide for
24 adjustments in the annuities under the Foreign

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1 Service retirement and disability system", approved
2 September 2, 1958 (22 U.S.C. 1079g-1079j).

3 (15) The Act entitled "An Act to provide for ad-
4 justments in the annuities under the Foreign Service
5 retirement and disability system", approved July 12,
6 1960 (22 U.S.C. 1079l).

7 (16) The Foreign Service Annuity Adjustment
8 Act of 1965 (22 U.S.C. 1079m-1079s).

9 SEC. 2206. OTHER CONFORMING AMENDMENTS.—
10 (a)(1) Section 3(b) of the Asian Development Bank Act (22
11 U.S.C. 285a(b)) is amended by striking out the "a Chief of
12 Mission, class 2, within the meaning of the Foreign Service
13 Act of 1946, as amended" and inserting in lieu thereof "a
14 chief of mission under the Foreign Service Act of 1980".

15 (2) The United Nations Participation Act of 1945 is
16 amended—

17 (A) in section 2(g) (22 U.S.C. 287(g)) by striking
18 out "sections 411 and 412 of the Foreign Service Act
19 of 1946 (Public Law 724, Seventy-ninth Congress) for
20 chiefs of mission" and inserting in lieu thereof "sec-
21 tions 401, 402, and 403 of the Foreign Service Act of
22 1980 for chiefs of mission, members of the Senior For-
23 eign Service,"; and

24 (B) in section 8 (22 U.S.C. 287e) by striking out
25 "section 901(3) of the Foreign Service Act of 1946

1 (Public Law 724, Seventy-ninth Congress)" and insert-
2 ing in lieu thereof "section 905 of the Foreign Service
3 Act of 1980".

4 (3) Section 2 of the joint resolution entitled "Joint Res-
5 olution providing for membership and participation by the
6 United States in the United Nations Educational, Scientific,
7 and Cultural Organization, and authorizing an appropriation
8 therefor", approved July 30, 1946 (22 U.S.C. 287n), is
9 amended by striking out "Foreign Service officers in the
10 schedule contained in section 412 of the Foreign Service Act
11 of 1946, as amended," and inserting in lieu thereof "mem-
12 bers of the Senior Foreign Service under section 402 of the
13 Foreign Service Act of 1980, or provided for Foreign Service
14 officers under section 403 of that Act,".

15 (4) Section 2 of the joint resolution entitled "Joint Res-
16 olution providing for membership and participation by the
17 United States in the World Health Organization and author-
18 izing an appropriation therefor", approved June 14, 1948 (22
19 U.S.C. 290a), is amended by striking out "provided by sec-
20 tion 412 of the Foreign Service Act of 1946, as amended,"
21 and inserting in lieu thereof "established under section 402
22 or 403 of the Foreign Service Act of 1980".

23 (5) Section 203(b) of the African Development Fund Act
24 (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of
25 Mission, class 2, within the meaning of the Foreign Service

1 Act of 1946, as amended" and inserting in lieu thereof "a
2 chief of mission under the Foreign Service Act of 1980".

3 (6) Section 408 of the Mutual Security Act of 1954 (22
4 U.S.C. 1928) is amended—

5 (A) in subsection (a) by striking out "Foreign
6 Service Act of 1946, as amended (22 U.S.C. 801)," and
7 inserting in lieu thereof "Foreign Service Act of
8 1980";

9 (B) in subsection (b) by striking out "chief of mis-
10 sion, class 1, within the meaning of the Foreign Serv-
11 ice Act of 1946, as amended (22 U.S.C. 801)" and in-
12 serting in lieu thereof "chief of mission under the For-
13 eign Service Act of 1980"; and

14 (C) in subsection (c) by striking out "section 529
15 of this Act who are appointed as Foreign Service Re-
16 serve officers may serve for periods of more than five
17 years notwithstanding the limitation in section 522 of
18 the Foreign Service Act of 1946, as amended (22
19 U.S.C. 922)" and inserting in lieu thereof "section 628
20 of the Foreign Assistance Act of 1961 who are mem-
21 bers of the Foreign Service serving under limited ap-
22 pointments may serve for periods of more than five
23 years notwithstanding the limitation in section 309 of
24 the Foreign Service Act of 1980".

1 (7) The International Atomic Energy Agency Participa-
2 tion Act of 1957 is amended—

3 (A) in section 2(d) (22 U.S.C. 2021(d))—

4 (i) in the first sentence by striking out “sec-
5 tions 411 and 412 of the Foreign Service Act of
6 1946, as amended (22 U.S.C. 866, 867), for
7 Chiefs of Mission” and inserting in lieu thereof
8 “sections 401, 402, and 403 of the Foreign Serv-
9 ice Act of 1980 for chiefs of mission, members of
10 the Senior Foreign Service,” and

11 (ii) in the second sentence by striking out
12 “by Chiefs of Mission” and inserting in lieu there-
13 of “under the Foreign Service Act of 1980 by
14 chiefs of mission, members of the Senior Foreign
15 Service,”; and

16 (B) in section 5 (22 U.S.C. 2024)—

17 (i) by striking out “Foreign Service Act of
18 1946, as amended,” and inserting in lieu thereof
19 “Foreign Service Act of 1980”, and

20 (ii) by striking “Foreign Service Act of
21 1946, as amended;” and inserting in lieu thereof
22 “Foreign Service Act of 1980;”.

23 (8) Section 704(b) of the Center for Cultural and Tech-
24 nical Interchange Between East and West Act of 1960 (22
25 U.S.C. 2056(b)) is amended by striking out “title X, part C

1 of the Foreign Service Act of 1946, as amended" and insert-
2 ing in lieu thereof "section 25 of the State Department Basic
3 Authorities Act of 1956".

4 (9) Section 104(d) of the Mutual Educational and Cul-
5 tural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended
6 by striking out "section 528" and all that follows through
7 "such persons" and inserting in lieu thereof "section 310 of
8 the Foreign Service Act of 1980 for individuals appointed to
9 the Foreign Service".

10 (10) Section 5(a) of the Migration and Refugee Assist-
11 ance Act of 1962 (22 U.S.C. 2605(a)) is amended—

12 (A) in paragraph (1) by striking out "Foreign
13 Service personnel" and inserting in lieu thereof "mem-
14 bers of the Foreign Service";

15 (B) in paragraph (2) by striking out "Foreign
16 Service Reserve officers" and inserting in lieu thereof
17 "members of the Foreign Service serving under limited
18 appointments"; and

19 (C) in paragraph (4) by striking out "Foreign
20 Service Act of 1946, as amended (22 U.S.C. 801 et
21 seq.)" and inserting in lieu thereof "Foreign Service
22 Act of 1980".

23 (11) Section 403(c) of the International Development
24 Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by

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1 striking out "Foreign Service Act of 1946" and inserting in
2 lieu thereof "Foreign Service Act of 1980".

3 (b)(1) Section 605A(h) of the Act entitled "An Act to
4 provide for greater stability in agriculture; to augment the
5 marketing and disposal of agricultural products; and for other
6 purposes", approved August 28, 1954 (7 U.S.C. 1765a(h)),
7 is amended by striking out "Foreign Service personnel" and
8 inserting in lieu thereof "members of the Foreign Service".

9 (2) Section 606D of such Act (7 U.S.C. 1766c) is
10 amended by striking out "title IX of the Foreign Service Act
11 of 1946" and inserting in lieu thereof "chapter 9 of title I of
12 the Foreign Service Act of 1980".

13 (c)(1) Section 2002(a) of title 10, United States Code, is
14 amended—

15 (A) in the text preceding paragraph (1) by striking
16 out "section 1041 of title 22" and inserting in lieu
17 thereof "section 701(b) of the Foreign Service Act of
18 1980"; and

19 (B) in paragraph (2) by striking out "section 1041
20 of title 22" and inserting in lieu thereof "section
21 701(a) of the Foreign Service Act of 1980".

22 (d) Section 8(a)(1) of the Defense Department Overseas
23 Teachers Pay and Personnel Practices Act (20 U.S.C.
24 906(a)(1)) is amended by striking out "section 901(2) of the
25 Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and in-

1 serting in lieu thereof "section 5924 of title 5, United States
2 Code".

3 (e)(1) Section 104(a)(4) of the Internal Revenue Code of
4 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "sec-
5 tion 831 of the Foreign Service Act of 1946, as amended (22
6 U.S.C. 1081)" and inserting in lieu thereof "section 808 of
7 the Foreign Service Act of 1980".

8 (2) Section 170(i) of the Internal Revenue Code of 1954
9 (26 U.S.C 170(i)) is amended by amending paragraph (6) to
10 read as follows:

"(6) For treatment of gifts accepted by the Secretary of
State, the Director of the International Communication
Agency, or the Director of the United States International
Development Cooperation Agency, as gifts to or for
the use of the United States, see section 25 of the State
Department Basic Authorities Act of 1956."

11 (3) Section 912(1)(A) of the Internal Revenue Code of
12 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

13 "(A) chapter 9 of title I of the Foreign Serv-
14 ice Act of 1980,".

15 (4) Section 2055(f)(5) of the Internal Revenue Code of
16 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

"(5) For treatment of gifts, devises, or bequests accept-
ed by the Secretary of State, the Director of the Interna-
tional Communication Agency, or the Director of the
United States International Development Cooperation
Agency as gifts, devises, or bequests to or for the use of
the United States, see section 25 of the State Department
Basic Authorities Act of 1956."

17 (f) Section 235 of title 38, United States Code, is
18 amended—

1 (1) in paragraph (1) by striking out "Section 1131
2 of title 22" and inserting in lieu thereof "Section 905
3 of the Foreign Service Act of 1980";

4 (2) in paragraph (2) by striking out "Section 1136
5 (1), (2), (3), (4), (5), (7), and (11) of title 22" and in-
6 serting in lieu thereof "Sections 901 (1), (2), (3), (4),
7 (7), (8), (9), (11), and (12) of the Foreign Service Act
8 of 1980";

9 (3) in paragraph (3) by striking out "Section 1138
10 of title 22" and inserting in lieu thereof "Section
11 901(13) of the Foreign Service Act of 1980";

12 (4) in paragraph (4) by striking out "Section 1148
13 of title 22" and inserting in lieu thereof "Section 903
14 of the Foreign Service Act of 1980"; and

15 (5) in paragraph (5) by striking out "Section 1156
16 of title 22" and inserting in lieu thereof "Section
17 904(d) of the Foreign Service Act of 1980".

18 (g) Section 415(c) of the Domestic Volunteer Service
19 Act of 1973 (42 U.S.C. 5055(c)) is amended—

20 (1) in paragraph (1) by striking out "section
21 852(a)(1) of the Foreign Service Act of 1946, as
22 amended (22 U.S.C. 1092(a)(1)), and every other" and
23 inserting in lieu thereof "any"; and

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1 (2) in paragraph (2) by striking out "Foreign
2 Service Act of 1946" and inserting in lieu thereof
3 "Foreign Service Act of 1980".

4 CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES
5 CODE

6 SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35
7 of title 5, United States Code, is amended by adding at the
8 end thereof the following new subchapter:

9 "SUBCHAPTER VI—REEMPLOYMENT FOLLOWING
10 LIMITED APPOINTMENT IN THE FOREIGN
11 SERVICE

12 "§ 3597. Reemployment following limited appointment in
13 the Foreign Service

14 "An employee of any agency who accepts, with the con-
15 sent of the head of that agency, a limited appointment in the
16 Foreign Service under section 309 of the Foreign Service
17 Act of 1980 is entitled, upon the expiration of that appoint-
18 ment, to be reemployed in that employee's former position or
19 in a corresponding or higher position in that agency. Upon
20 reemployment under this section, an employee shall be enti-
21 tled to any within-grade increases in pay which the employee
22 would have received if the employee had remained in the
23 former position in the agency."

24 (b) The analysis for chapter 35 of title 5, United States
25 Code, is amended by adding at the end thereof the following:

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"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED
APPOINTMENT IN THE FOREIGN SERVICE

"3597. Reemployment following limited appointment in the Foreign Service."

1 SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—

2 Section 5313 of title 5, United States Code, is amended by
3 adding the following at the end thereof:

4 "Ambassadors at Large."

5 SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPAR-
6 TURES FROM POSTS ABROAD.—(a) Section 5522(a) of title
7 5, United States Code, is amended—

8 (1) by striking out "evacuation" and inserting in
9 lieu thereof "departure"; and

10 (2) by striking out "is ordered for military or
11 other reasons which create imminent danger to the life
12 or lives of the employee or of his dependents or imme-
13 diate family" and inserting in lieu thereof "is officially
14 authorized or ordered—

15 "(1) from a place outside the United States from
16 which the Secretary of State determines it is in the na-
17 tional interest to require the departure of some or all
18 employees, their dependents, or both; or

19 "(2) from any place where there is imminent
20 danger to the life of the employee or the lives of the
21 dependents or immediate family of the employee".

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1 (b) Section 5522(b) of title 5, United States Code, is
2 amended by striking out "evacuation" and inserting in lieu
3 thereof "departure".

4 (c) Section 5523(a)(1) of title 5, United States Code, is
5 amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 "(A) whose departure is authorized or or-
9 dered under section 5522(a) of this title; and";
10 and

11 (2) in subparagraph (B) by striking out "evacua-
12 tion" and inserting in lieu thereof "departure".

13 (d) Section 5523(b) of title 5, United States Code, is
14 amended by striking out "evacuation" both places it appears
15 and inserting in lieu thereof "departure".

16 (e) Section 405a(a) of title 37, United States Code, is
17 amended by striking out "evacuated" and "evacuation"
18 wherever they appear and inserting in lieu thereof "to
19 depart" and "departure", respectively.

20 SEC. 2304. PREMIUM PAY.—Paragraph (2) of section
21 5541 of title 5, United States Code, is amended—

22 (1) by striking out clauses (xiv) and (xv) and in-
23 serting in lieu thereof the following:

24 "(xiv) a member of the Senior Foreign Serv-
25 ice; or"; and

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1 (2) by redesignating clause (xvi) as clause (xv).

2 *SEC. 2305. SEVERANCE PAY.—Section*
 3 *5595(a)(2)(vi) of title 5, United States Code, is amended by*
 4 *inserting after “to receive” the following: “benefits under sec-*
 5 *tion 609(b)(1) of the Foreign Service Act of 1980 or any”.*

6 *SEC. ~~2305~~. 2306. ATTORNEYS FEES IN BACKPAY*
 7 *CASES.—Section 5596(b) of title 5, United States Code, is*
 8 *amended—*

9 (1) in paragraph (1)(A)(ii) by inserting “or under
 10 chapter 11 of title I of the Foreign Service Act of
 11 1980,” immediately after “chapter 71 of this title,”;
 12 and

13 (2) in paragraph (3)—

14 (A) by inserting “and (with respect to mem-
 15 bers of the Foreign Service) in sections 1101 and
 16 1002 of the Foreign Service Act of 1980” imme-
 17 diately after “section 7103 of this title”; and

18 (B) by inserting “and (with respect to mem-
 19 bers of the Foreign Service) in section 1015 of
 20 the Foreign Service Act of 1980” immediately
 21 after “section 7116 of this title”.

22 *SEC. ~~2306~~. 2307. SEPARATE MAINTENANCE ALLOW-*
 23 *ANCE.—Section 5924(3) of title 5, United States Code, is*
 24 *amended—*

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1 (1) by inserting "or authorized" immediately after
2 "compelled"; and

3 (2) by inserting "or who requests such an allow-
4 ance because of special needs or hardship involving the
5 employee or the employee's spouse or dependents,"
6 immediately after "for the convenience of the
7 Government,".

8 ~~SEC. 2307.~~ 2308. EDUCATION ALLOWANCE.—Section
9 5924(4)(B) of title 5, United States Code, is amended by
10 striking out "(i)" and by striking out "of the Department of
11 State" and all that follows through "type of education".

12 ~~SEC. 2308.~~ 2309. POSTS REQUIRING SPECIAL INCEN-
13 TIVES.—Section 5925 of title 5, United States Code, is
14 amended—

15 (1) by striking out "A post" in the first sentence
16 and inserting in lieu thereof "(a) A post";

17 (2) by inserting "under this subsection" immedi-
18 ately after "differential" in the last sentence; and

19 (3) by adding at the end thereof the following new
20 subsection:

21 "(b) Any employee granted a differential under subsec-
22 tion (a) of this section may be granted an additional differen-
23 tial for an assignment to a post determined to have especially
24 adverse conditions of environment which warrant additional
25 pay as a recruitment and retention incentive for the filling of

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1 positions at that post. An additional differential for any em-
 2 ployee under this subsection—

3 “(1) may be paid for each assignment to a post
 4 determined to have such conditions;

5 “(2) may be paid periodically or in a lump sum;
 6 and

7 “(3) may not exceed 15 percent of the rate of
 8 basic pay of that employee for the period served under
 9 that assignment.”.

10 ~~SEC. 2309.~~ 2310. ADVANCES OF PAY.—(a) Subchapter
 11 III of chapter 59 of title 5, United States Code, is amended
 12 by adding at the end thereof the following new section:

13 “§ 5927. Advances of pay

14 “Up to three months’ pay may be paid in advance to an
 15 employee upon the assignment of the employee to a post in a
 16 foreign area.”.

17 (b) The analysis of chapter 59 of title 5, United States
 18 Code, is amended by inserting after the item relating to sec-
 19 tion 5926 the following:

“5927. Advances of pay.”.

20 ~~SEC. 2310.~~ 2311. DANGER PAY ALLOWANCE.—(a)
 21 Subchapter III of chapter 59 of title 5, United States Code,
 22 as amended by section 2309(a), is further amended by adding
 23 at the end thereof the following new section:

1 **"§ 5928. Danger pay allowance .**

2 "An employee serving in a foreign area may be granted
3 a danger pay allowance on the basis of civil insurrection, civil
4 war, terrorism, or wartime conditions which threaten physi-
5 cal harm or imminent danger to the health or well-being of
6 the employee. A danger pay allowance may not exceed
7 twenty-five percent of the basic pay of the employee."

8 (b) The analysis for chapter 59 of title 5, United States
9 Code, as amended by section 2309(b), is further amended
10 by inserting after the item relating to section 5927 the
11 following:

 "5928. Danger pay allowance."

12 ~~SEC. 2311. 2312. LEAVE.~~—(a) Section 6301 of title 5,
13 United States Code, is amended by adding at the end thereof
14 the following new sentence:

15 "Notwithstanding clauses (x)–(xii) of paragraph (2), the term
16 'employee' includes any member of the Senior Foreign Serv-
17 ice or any Foreign Service officer (other than a member or
18 officer serving as chief of mission or in a position in the De-
19 partment of State which requires appointment by and with
20 the advice and consent of the Senate) and any member of the
21 Foreign Service commissioned as a diplomatic or consular
22 officer, or both, under section 312 of the Foreign Service Act
23 of 1980."

1 (b) Section 6304 of title 5, United States Code, is
2 amended—

3 (1) in subsection (a) by striking out “and (f)” and
4 inserting in lieu thereof “(f), and (g)”; and

5 (2) by adding at the end thereof the following new
6 subsection:

7 “(g) Annual leave accrued by a member of the Senior
8 Foreign Service shall not be subject to the limitation on accu-
9 mulation otherwise imposed by this section.”.

10 SEC. ~~2312~~. 2313. RETIREMENT CREDIT FOR IMPRIS-
11 ONED FOREIGN NATIONALS.—Section 8332(b) of title 5,
12 United States Code, is amended by striking out “and” at the
13 end of paragraph (8), by striking out the period at the end of
14 paragraph (9) and inserting in lieu thereof “; and”, and by
15 inserting after paragraph (9) the following new paragraph:

16 “(10) periods of imprisonment of a foreign nation-
17 al for which compensation is provided under section
18 410 of the Foreign Service Act of 1980, if the individ-
19 ual (A) was subject to this subchapter during employ-
20 ment with the Government last preceding imprison-
21 ment, or (B) is qualified for an annuity under this
22 subchapter on the basis of other service of the
23 individual.”.

24 SEC. ~~2313~~. 2314. CONFORMING AMENDMENTS TO
25 TITLE 5.—(a) Section 3323(c) of title 5, United States Code,

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1 is amended by striking out "Foreign Service officer retired
2 under section 1001 or 1002 of title 22 or a Foreign Service
3 staff officer or employee retired under section 1063 of title
4 22" and inserting in lieu thereof "member of the Foreign
5 Service retired under section 812 of the Foreign Service Act
6 of 1980".

7 (b) Section 5102(c)(2) of title 5, United States Code, is
8 amended by striking out "employees in the Foreign Service
9 of the United States whose pay is fixed under chapter 14 of
10 title 22" and insert in lieu thereof "members of the Foreign
11 Service whose pay is fixed under the Foreign Service Act of
12 1980".

13 (c)(1) Section 5301(c) of title 5, United States Code, is
14 amended—

15 (A) by inserting "or" at the end of paragraph (1);

16 (B) by striking out paragraph (2); and

17 (C) by redesignating paragraph (3) as paragraph

18 (2).

19 ~~(2) Section 5303(a) of title 5, United States Code, is~~
20 ~~amended—~~

21 ~~(A) by inserting "or" at the end of paragraph (1);~~

22 ~~(B) by redesignating paragraph (3) as paragraph~~

23 ~~(2);~~

1 (C) by striking out “; or” at the end of such re-
2 designated paragraph and inserting in lieu thereof a
3 period; and

4 (D) by striking out paragraph (4).

5 (3) Section 5304 of title 5, United States Code, is
6 amended by striking out “chapter 14 of title 22” and insert-
7 ing in lieu thereof “the Foreign Service Act of 1980”.

8 (d) Section 5724(g) of title 5, United States Code, is
9 amended by striking out “chapter 14 of title 22” and insert-
10 ing in lieu thereof “the Foreign Service Act of 1980”.

11 (e) Section 5727(e)(2) of title 5, United States Code, is
12 amended to read as follows:

13 “(2) This section, except subsection (a), does not affect
14 section 403e(4) of title 50.”.

15 (f)(1) Section 6301(2)(xii) of title 5, United States Code,
16 is amended by striking out “an officer who receives pay
17 under section 866 of title 22” and inserting in lieu thereof “a
18 chief of mission (as defined in section 102(a)(3) of the Foreign
19 Service Act of 1980)”.

20 (2) Section 6305(b) of title 5, United States Code, is
21 amended by striking out “an officer” and inserting in lieu
22 thereof “a chief of mission”.

23 (g) Section 7103(a)(2)(iv) of title 5, United States Code,
24 is amended by striking out “the Agency for International De-
25 velopment, or” and inserting before the semicolon “, the

1 United States International Development Cooperation
2 Agency, the Department of Agriculture, or the Department
3 of Commerce”.

4 (h) Section 8501(1)(C) of title 5, United States Code, is
5 amended by striking out “Foreign Service personnel for
6 whom special separation allowances are provided under
7 chapter 14 of title 22” and inserting in lieu thereof “mem-
8 bers of the Foreign Service for whom payments are provided
9 under section 609(b)(1) of the Foreign Service Act of 1980”.

10 CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL
11 OVERSIGHT, AND EFFECTIVE DATE

12 SEC. 2401. SAVING PROVISIONS.—(a) All determina-
13 tions, authorizations, regulations, orders, agreements, exclu-
14 sive recognition of an organization or other actions made,
15 issued, undertaken, entered into, or taken under the authority
16 of the Foreign Service Act of 1946 or any other law re-
17 pealed, modified, or affected by this Act shall continue in full
18 force and effect until modified, revoked, or superseded by ap-
19 propriate authority. Any grievances, claims, or appeals which
20 were filed or made under any such law and are pending reso-
21 lution on the effective date of this Act shall continue to be
22 governed by the provisions repealed, modified, or affected by
23 this Act.

24 (b) This Act shall not affect any increase in annuity or
25 other rights to benefits, which was provided by any provision

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1 amended or repealed by this Act, with respect to any individ-
2 ual who became entitled to such benefit prior to the effective
3 date of this Act.

4 (c) References in law to provisions of the Foreign Serv-
5 ice Act of 1946 or other law superseded by this Act shall be
6 deemed to include reference to the corresponding provisions
7 of this Act.

8 SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLE-
9 MENTATION.—(a) Within fifteen months after the effective
10 date of this Act, the Secretary of State shall submit to the
11 Speaker of the House of Representatives and to the Commit-
12 tee on Foreign Relations of the Senate a report describing
13 the implementation of this Act during the fiscal year 1981 by
14 the agencies utilizing the Foreign Service personnel system.
15 Such report shall—

16 (1) describe the steps taken and planned in fur-
17 therance of (A) maximum compatibility among such
18 agencies, as provided for in section 203, and (B) the
19 development of uniform policies and procedures and
20 consolidated personnel functions, as provided for in
21 section 204;

22 (2) indicate the progress made by each such
23 agency in the conversion of personnel and position
24 classifications in accordance with chapter 1 of this
25 title; and

1 (3) specify the upper and lower limits planned by
2 each such agency for recruitment, advancement, and
3 retention of members of the Service, as provided for in
4 section 601(c)(2), including with respect to each of the
5 relevant promotion competition groups the projected
6 ranges of rates of appointment, promotion, and attrition
7 over each of the five fiscal years 1981 through 1985.

8 (b) Beginning in 1982, the Secretary of State shall
9 submit each year to the Speaker of the House of Representa-
10 tives and to the Committee on Foreign Relations of the
11 Senate a supplemental report describing any relevant devel-
12 opments with respect to the matters reported on under para-
13 graphs (1) and (2) of subsection (a) and, with respect to para-
14 graph (3) of such subsection, a revised projection of the
15 ranges of rates of appointment, promotion, and attrition over
16 each of the next five years, as well as a comparison of such
17 projections with the projections for the preceding year and
18 with actual rates of appointment, promotion, attrition. The
19 report shall explain fully any deviations from projections re-
20 ported in the preceding year.

21 (c) The Secretary shall consult, in accordance with the
22 procedures set out in section 1013(g), with the exclusive rep-
23 resentative (if any) of members of the Foreign Service in each
24 agency specified in section 1003(a) with respect to steps to
25 be taken in implementing this Act and reported under this

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1 section. To that end, each such exclusive representative will
2 have timely access to all relevant information at each stage.
3 Each such report shall include the views of each such exclu-
4 sive representative on any and all aspects of the report and
5 the information contained in such report.

6 SEC. 2403. EFFECTIVE DATE.—(a) Except as other-
7 wise provided, this Act shall take effect on October 1, 1980.

8 (b)(1) Chapter 8 of title I of this Act shall take effect on
9 the later of October 1, 1980, or the 90th day after the date of
10 enactment of this Act. If such effective date is after October
11 1, 1980, the provisions of sections 519, 631, 632, and 636
12 and of title VIII of the Foreign Service Act of 1946, and the
13 provisions of section 8 and 9 of Public Law 90-494, shall
14 remain in effect until such effective date, notwithstanding the
15 repeal of those provisions by section 2205.

16 (2) The provisions of such chapter regarding the rights
17 of former spouses to any annuity under section 814(a) shall
18 apply in the case of any individual who after such effective
19 date becomes a former spouse of an individual who separates
20 from the Service after such date.

21 (3) The provisions of such chapter regarding the rights
22 of former spouses to receive survivor annuities under section
23 814(b) shall apply in the case of participants or former par-
24 ticipants in the Foreign Service Retirement and Disability
25 System who die after such effective date.

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1 (2) *The provisions of such chapter regarding the rights*
2 *of any former spouse to any annuity under 814(a) shall*
3 *apply only with respect to an individual who, after such ef-*
4 *fective date, becomes the former spouse of a participant or a*
5 *former participant in the Foreign Service Retirement and*
6 *Disability System.*

○

Union Calendar No. 612

96TH CONGRESS
2D Session

H. R. 6790

[Report No. 96-992, Parts I and II]

A BILL

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

MARCH 12, 1980

Referred jointly to the Committees on Foreign Affairs and
Post Office and Civil Service

MAY 15, 1980

Reported from the Committee on Foreign Affairs, with
amendments

MAY 15, 1980

Reported from the Committee on Post Office and Civil
Service, with amendments, committed to the Commit-
tee of the Whole House on the State of the Union, and
ordered to be printed